

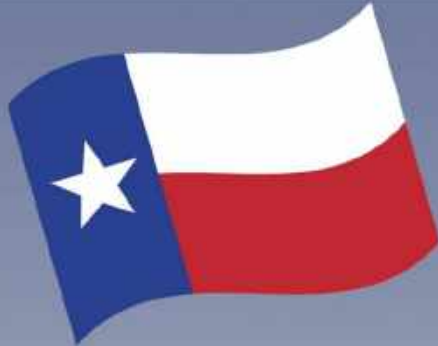
A photograph of the Texas State Capitol building in Austin, Texas, taken at dusk. The building is illuminated with warm yellow lights, and its iconic dome is visible against a blue twilight sky with wispy clouds. In the foreground, a stone wall with a metal railing and circular portholes is visible. A large blue rectangular box is overlaid on the lower half of the image, containing white text.

Texas Marijuana Policy Candidate Briefing

TUESDAY, SEPTEMBER 1ST, 2020 AT NOON



TEXANS FOR RESPONSIBLE
MARIJUANA POLICY



TEXANS FOR RESPONSIBLE MARIJUANA POLICY



Coalition of Texans
with Disabilities



Progress ★ Texas
The Voice for a New Majority



DPFT

The Drug Policy Forum of Texas



reason
FOUNDATION



Grassroots Action!



Grassroots Action

Record number of bills introduced ranging from affirmative defense to full adult use legalization.

Thousands of calls and emails, hundreds of Texans visited the Capitol to advocate on lobby day and on their own.

Educational Exhibits

Legislative Briefings

Citizen Lobby Days

Resource Materials for Lawmakers

Facilitate Committee Hearing Testimony

Direct Actions



Texas Marijuana Policy Candidate Briefing

| | |
|-----------------------------|---------------------------------|
| Cannabis 101 | Decriminalization |
| Federal Policy | Texas Compassionate Use Program |
| Texas Hemp | Adult Use Legalization |
| Common Objections to Reform | |
| Q&A | |



Cannabis 101

with Jax Finkel






Cannabis

Cannabis
Sativa

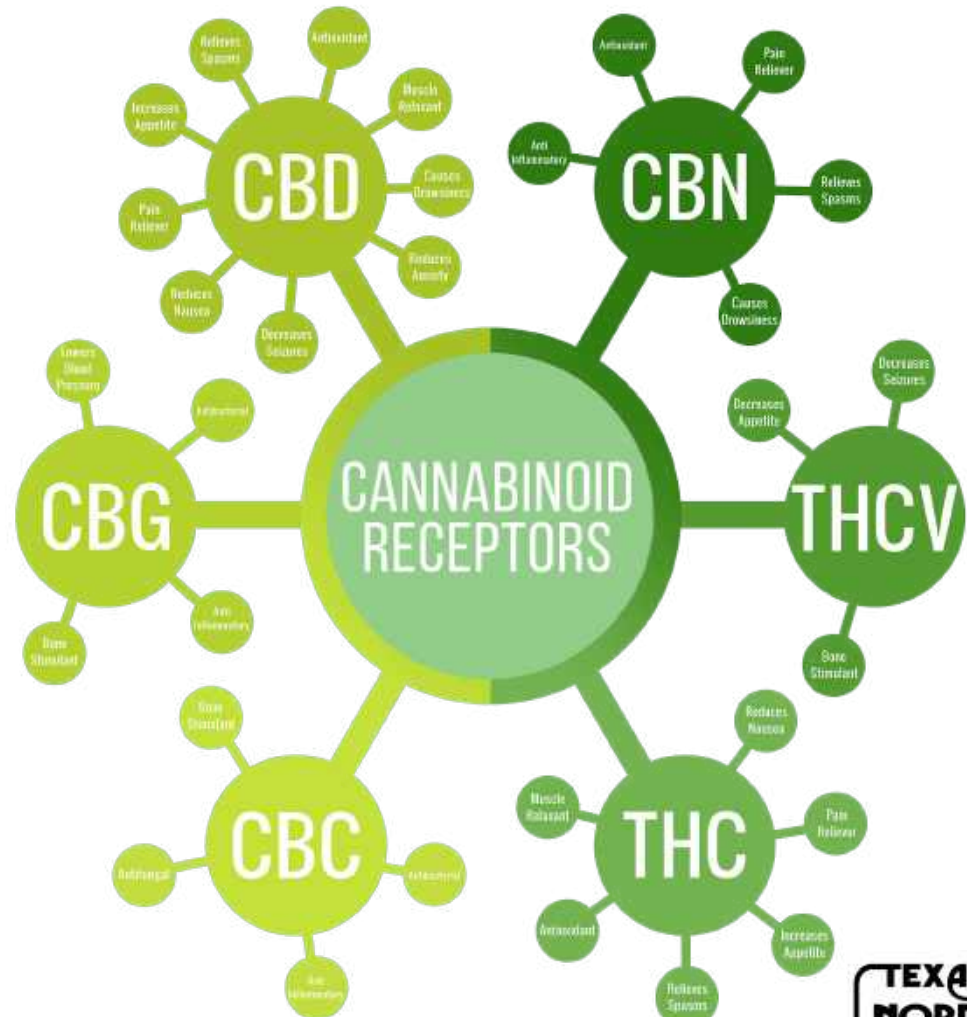
Cannabis
Indica



Cannabis
Ruderalis
(Hemp)

- **Cultivar** - formerly known as strain. Short for cultivated variety, and is defined as a plant that has been “created or selected intentionally and maintained through cultivation”. It’s used to reference the strain, breed, type.
- **Chemovar** - distinguished by terpene profile, cannabinoid presence and potency, and quantity of standard biomolecules like lipids and waxes

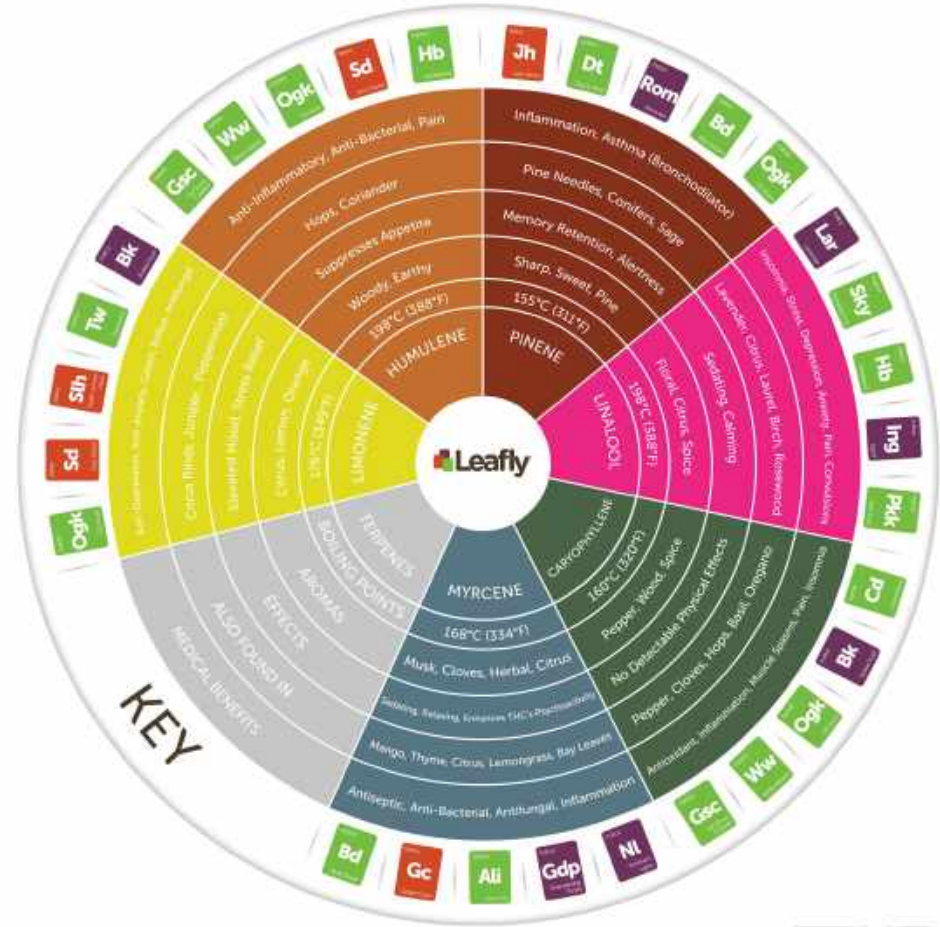
Cannabinoid - group of closely related compounds which include cannabidiol and the active constituents of cannabis. Examples: THC, CBD, CBN, THCV



Credit: https://www.inmedpharma.com/learn/cannabinoid_science/

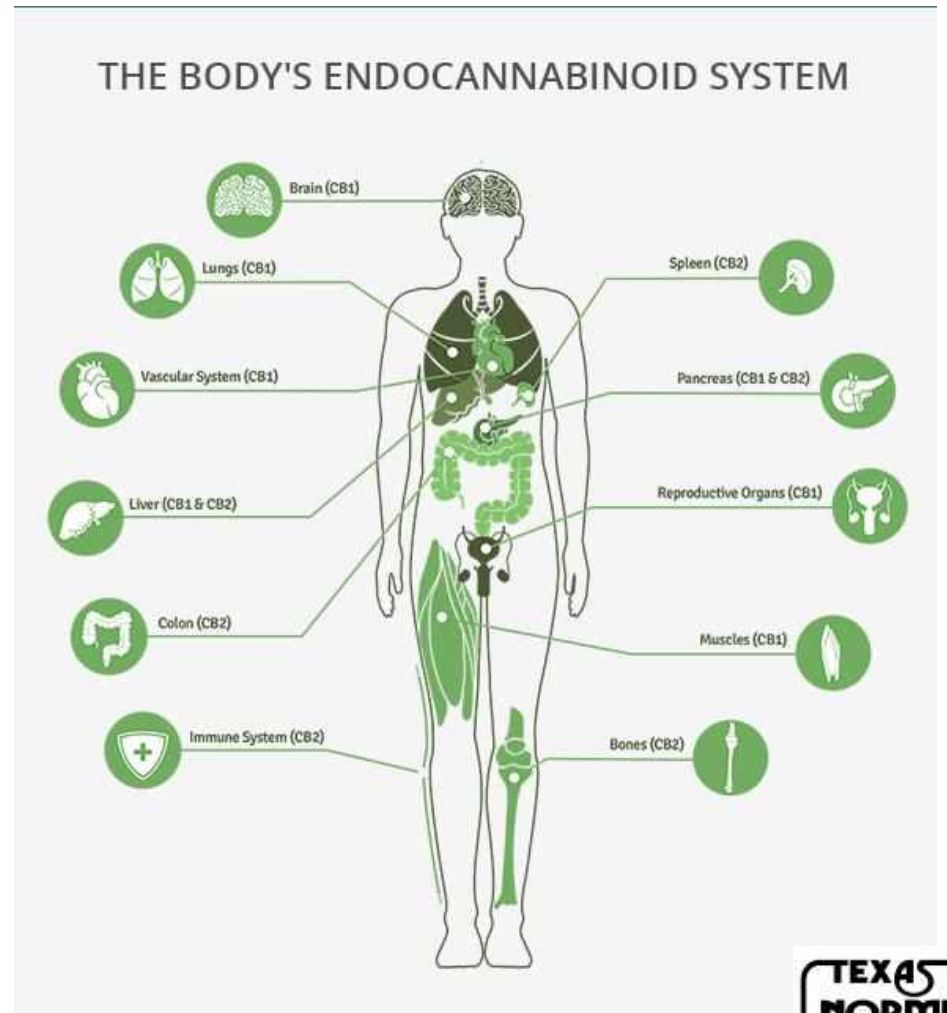


Terpene - organic compounds that create the aroma of plants (essential oil) that can affect how the body uptakes some cannabinoids and have their own therapeutic benefits. Examples: Limonene, Pinene, Caryophyllene



<http://steephill.com/resources/cannabinoid-and-terpenoid-reference-guide/>
<http://sciabz.com/learn/terpenes.html>

The **Endocannabinoid System (ECS)** interacts with these compounds to help bring homeostasis to multiple body systems. Cannabinoid receptors are present throughout the body, embedded in cell membranes, and are believed to be more numerous than any other receptor system.



Cannabis Forms



Flower



Topicals



Concentrates



Tinctures



Ingestibles

Uptake Methods

- **Oral Mucosal** – Absorption through the lining of the mouth and under the tongue – effects are felt throughout the entire body.
- **Ingestion** – Absorption through oral ingestion. Cannabinoid molecules are absorbed in the intestinal tract and metabolized in the liver.
- **Inhalation** – Absorption through inhaling combusted or vaporized cannabis.
- **Transdermal** – Absorption through the skin.



Federal Policy

with Jax Finkel



Scheduling

Under the Controlled Substance Act (CSA), Cannabis with .3% or more THC is considered a Schedule 1 drug, the most restrictive category available under the law. As summarized by the DEA, “Schedule I drugs are the most dangerous drugs of all the drug schedules with potentially severe psychological or physical dependence.” This is because the current regulatory requirements in place are specific to cannabis, not to Schedule I or Schedule II drugs.

Reschedule - To change the level of scheduling for cannabis on the CSA

Cons:

- misrepresent the plant’s safety relative to other controlled substances
- Leaves the existing regulatory hurdles in place that severely and unduly limit scientist’s ability to conduct clinical research trials involving marijuana
- fails to provide states with the ability to fully regulate it free from federal interference.
- Pros: Possible to regulate for medicinal purposes (under the oversight of the FDA)

Deschedule - To remove from the CSA

Pros:

- complete decoupling of cannabis from the American War on Drugs protect states from federal enforcement
- allows private companies to develop their own specific and proprietary formulations of cannabis
- allows them to legally test these products in FDA-approved controlled trials – with the goal of bringing such products to market



Restricting Department of Justice Funding

Amendment to appropriations bill that bars the Department of Justice (DOJ) from spending money to prevent states and territories from "implementing their own laws that authorize the use, distribution, possession, or cultivation of marijuana." This helps protect state-approved medical cannabis and retail markets.

Research Restraints

- Conflicts between state and federal laws can come between scientists and their ability to legally obtain marijuana for research.
 - Cannabis researchers face the need to get approval from three federal agencies, and funding is limited.
 - Many applications to the DEA have been left pending all the way back to 2016
 - Applicants also have to be in compliance with US obligations under an international treaty, the Single Convention on Narcotic Drugs.
- Most studies on the therapeutic effects of cannabis have relied on synthetic formulations of specific chemicals made by cannabis plants, such as the cannabinoids tetrahydrocannabinol (THC)—the psychoactive component of cannabis—and cannabidiol (CBD).
 - A few researchers have looked at the efficacy of whole cannabis plants to treat chronic pain, but no clinical studies have been conducted on cannabis products purchased from state-authorized dispensaries.
- US researchers can only study the effects of cannabis using plant material grown by the University of Mississippi under contract with the National Institute on Drug Abuse (NIDA).
 - Researchers have complained for years about the quality and potency of the cannabis grown by the University of Mississippi, which is also not comparable to products purchased through state programs.

Current Research

International:

Israeli chemist and professor Dr. Raphael Mechoulam revealed his earth-shattering research about the structure of THC and CBD in the early 1960's. Continuing to research the plant, he and a group of researchers recently revealed at a medical cannabis conference that they have created a way of stabilizing acids found within the living cannabis plant that can be used in medicine.

American:

Scottsdale Research Institute (SRI) and Dr Sisley are conducting controlled trials of smoked and vaporized cannabis, attempting to move whole plant flower through the entire U.S. Food and Drug Administration (FDA) drug development process.

Texas:

Compassionate Cultivation and Fluence will collaborate on research studies using Fluence's industry-leading LED lighting systems to gather new insights into sustainable cannabis production while delivering high-quality medical cannabis to Texans with qualifying conditions under the Compassionate Use Program.



VA Directive 2011-004

Gave guidance to VA doctors on how to handle patients that are participating in a state-approved medical program.

- clarified that patients participating in State marijuana programs must not be denied VHA services
- prohibited VA providers from completing forms seeking recommendations or opinions regarding a Veteran's participation in a State marijuana program
- if a patient reports participation in a State marijuana program to a member of the clinical staff, that information is entered into the “non-VA medication section” of the patient's electronic medical record following established medical facility procedures for recording nonVA medication use

Hemp

With Jax Finkel



2014 Farm Bill

- Defined industrial hemp as distinct from marijuana based on THC content
- Allowed pilot programs at institutions of higher education with the goal of to generate and protect research into hemp
- Farmers had to be certified by and registered with the State department of agriculture AND conducting research or a pilot program approved by the State department of agriculture
- By 2018, 16 states had programs

2018 Farm Bill

- Amended the federal Controlled Substances Act (CSA) of 1970 so that hemp plants containing 0.3 percent THC or less are no longer classified as a schedule I controlled substance under federal law
- Maintained the 2014 pilot programs for an additional year
- Removed hemp from the jurisdiction of the Justice Department and moved it to the U.S. Department of Agriculture (USDA)
- States that do not want to fall under USDA regulations have to create their own program and submit to USDA for approval

Texas Timeline

- **March 2019:** Texas Department of Health and Human Services (DHHS) amended the Texas schedule of controlled substances to remove hemp
- **June 2019:** Hemp Farming Act HB 1325 is signed by the Governor. The bill was authored by Representative King and sponsored by Senator Perry, passed unanimously in both chambers
- **January 2020:** USDA approves the Texas Hemp Program
- **March 2020:** Texas Department of Agriculture (TDA) adopts rules for growing hemp. Farmers are licensed and growing hemp.
- **July 2020:** Texas Department of State Health Services (DSHS) released the final rules that will govern the manufacture of consumable hemp products in Texas. Manufacturers can now apply for their license.
- **Coming Soon:** Retail licensing



Issues

THC Testing

- Law Enforcement Officers cannot distinguish legal hemp from illegal marijuana since you cannot tell the amount of THC by sight. It requires expensive testing.
- Many labs do not have the expensive testing equipment needed to test to the tenth of a percent, nor the accreditation.
- The Big Three and AG announce that a civil penalty of up to \$500 can be levied for transporting hemp without proper certification.
- Some localities are defunding THC testing and protocols as well as stopping the arrest or prosecution for personal possession of marijuana.

Issues

Smokeable Hemp Product Ban

- The DSHS rules explicitly prohibit the manufacture, processing, distribution, or retail sale of consumable hemp products for smoking.
- Smoking Definition: Burning or igniting a consumable hemp product and inhaling the resultant smoke, vapor, or aerosol.
- This does not include loose flower but rather pre-rolls, vape cartridges or anything marketed for smoking/vaping.
- FIX: Businesses suing the state followed by a legislative correction.
 - Lawsuit: Crown Distributing, LLC v. Texas DSHS (D-1-GN-20-004053)

Possession of Marijuana

“Marihuana” -- Statutory name for cannabis with more than .3% THC.

Current State Law

- Up to two ounces of marijuana: Class B misd. punishable by imprisonment of up to six months and a fine of up to \$2,000.
- Between 2-4 ounces of marijuana: Class A misd., punishable by imprisonment of up to 1 year and a fine of up to \$4,000.
- Four ounces or more of flower or any amount of oil or concentrated products: Felony!

Number of arrests: More than 60,000 Texans arrested for marijuana possession in 2017.

Conviction Rates:

An estimated 66% of those charged are CONVICTED. A drug conviction for marijuana creates a permanent criminal record and carries significant and lasting collateral consequences.



Possession of Marijuana

| Penalty/Collateral Consequence | Class B Misdemeanor (Current Law) | Class C Misdemeanor | Civil Penalty |
|---|--|--------------------------------|----------------------|
| Fine | Up to \$2,000 | Up to \$500 | Up to \$250 |
| Arrest | Yes | Yes | No |
| Jail Time | Up to 180 Days | No | No |
| Permanent Criminal Record | Yes | Yes | No |
| Drivers License Suspension¹ | Yes | Yes | No |
| License To Carry Suspended² (7yrs.) | Yes | Yes | No |
| Court Appointed Attorney | Yes | No | No |
| Financial Aid Affected³ | Yes | Yes | No |
| Military Service Jeopardized⁴ | Yes | Yes | No |
| Naturalization Jeopardized⁵ | Yes | Yes | No |
| Housing Options Limited⁶ | Yes | Yes | No |
| Professional Licensing Affected⁷ | Yes | Yes | No |
| Work Visa Denied⁸ | Yes | | No |



"I don't want to see our jails
stock piled with people who
have possession of small
amounts of marijuana."

Governor Greg Abbott
9/28/18



Possession of Marijuana

What passed the House in 2019?

For up to 1 oz. of marijuana, Rep. Joe Moody's bill would have instituted...

- Class C Misdemeanor, \$500 fine
- No arrest
- Opportunity to avoid conviction with drug education course, similar to defensive driving for speeding tickets.

This bill passed overwhelmingly with bipartisan support, but was killed in the Senate.



Local (Non)Enforcement

Austin - Most recent and far-reaching.

Dallas - El Paso - Houston - San Antonio - Corpus Christi -
Fort Worth?

- Diversion programs, using prosecutorial discretion.
(Started in Houston.)
- Cite/Summons - law since 2007, but rarely used until recent years.

Testing: Legal Cannabis vs Illegal Cannabis



Possession of Marijuana

Penalty Reduction Policy Objectives

- One ounce or less of marijuana would be punishable by fine only.
- Individuals should not be arrested or jailed for possession of a small amount of marijuana.
- The offense should not generate a criminal record, which can follow a person for life and jeopardize employment prospects, housing, and educational opportunities.
- Twenty-seven states and Washington, D.C. have enacted laws to stop jailing their residents for possession of small amounts of marijuana.



Texas Compassionate Use Program

Low-THC Medical Cannabis Access

The Texas Compassionate Use Program (T.CUP) was established in 2015. The Legislature expanded the program in 2019, providing access to low-THC cannabis for those with a few medical conditions.

Here's an overview of the program under current law:

Limited Patient Access

- Dosing is restricted to .5% THC, but there are no restrictions on other cannabinoids and terpenes.
- Patients with the following qualifying conditions may participate in the program:
 - All epilepsy and seizure disorders,
 - Multiple sclerosis or spasticity,
 - Terminal cancer or incurable neurological disorders (Alzheimer's, Parkinson's, etc.),
 - Autism or Amyotrophic lateral sclerosis (ALS).
- Three dispensary locations with statewide delivery is available.
- Limited public list of participating physicians.



Texas Compassionate Use Program

Participating Physicians must be Specialists

- To participate, a physician must be board certified in a medical specialty relevant to the treatment of the patient's particular medical condition

Business Licensing and Regulation

- The Department of Public Safety (DPS) is the regulating authority for our state's medical cannabis program. Rules are developed and maintained by the Public Safety Commission, which is comprised of five members appointed by the governor.
- Three businesses are currently licensed by DPS to cultivate, manufacture/process, and dispense low-THC cannabis. To ensure reasonable statewide access, dispensaries may deliver medicine throughout the state and the department may issue additional licenses. Licensing fees for licensed businesses are nearly \$500,000 for the first two years and more than \$300,000 every two years for renewal. Details about the rules and regulations can be found on the DPS website.



Compassion Should be Inclusive

Expand the Texas Compassionate Use Program

Allow safe and legal access to cannabis for those with debilitating medical conditions.

Allow doctors to determine appropriate dosing for individual patients.



Texas Compassionate Use Program

Establish patient protections to eliminate the threat of being to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing. Parental rights should never be denied and students cannot be subject to any form of discipline solely because of possession or use of their medicine.

Authorize independent laboratories that would be licensed and regulated, providing consumer protection with regard to potency and contaminants.

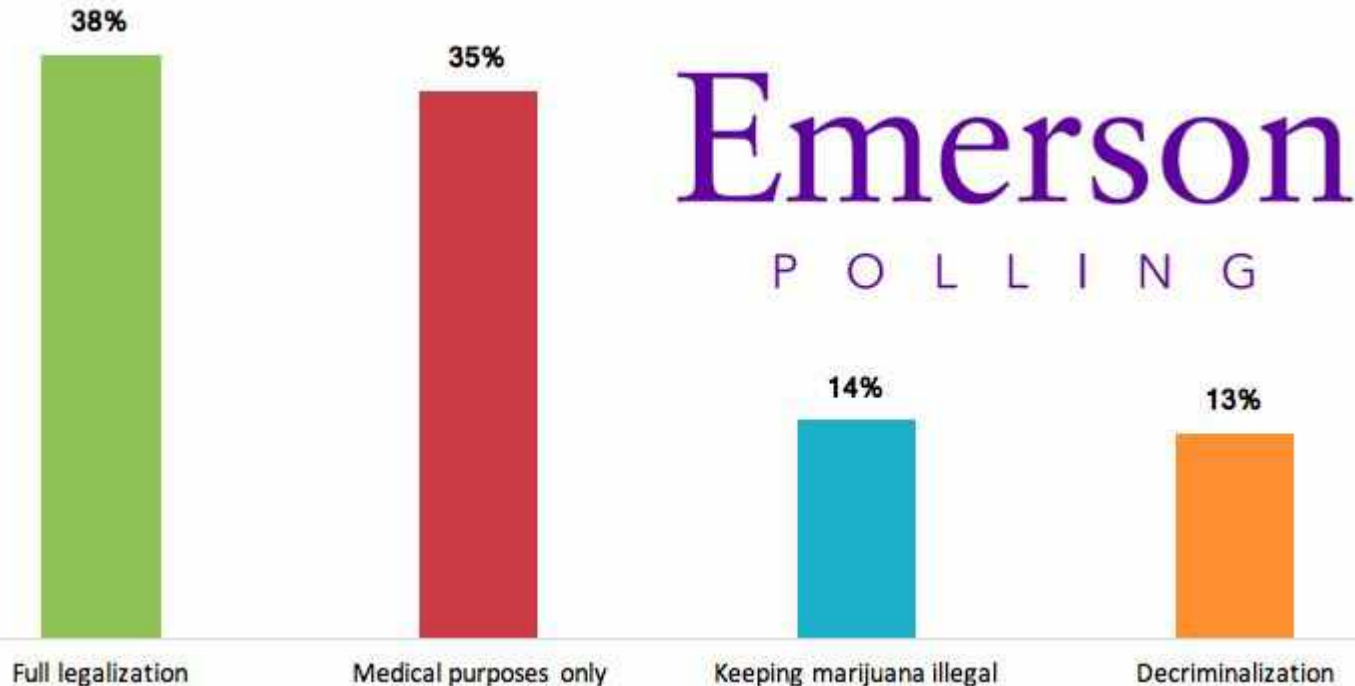
Protect physicians by allowing them to certify patients through the state registry, rather than “prescribing” cannabis, an action that would jeopardize their registration with the DEA/their ability to prescribe controlled substances. Also, ensuring they may not be denied any right or privilege or be subject to disciplinary action solely for making a written or oral statement that, in the physician’s professional opinion, the potential benefits of the use of cannabis would likely outweigh the health risks; or participating in research programs.



Public Polling - 86% Support Reform

Which of the following marijuana policies do you favor?

Texas, April 25-28, MM, RV, n=799, +/- 3.4%



Adult Use Legalization

Marijuana is safer than alcohol; possession should not be criminalized in Texas

- Marijuana is less toxic, less addictive, and less harmful to the body. It does not contribute to violent and reckless behavior. Adults should not be criminalized or incarcerated for choosing to use the safer substance.

Save tax-funded resources for serious crime

- State law enforcement officials report that there were nearly 63,000 arrests or citations in Texas in 2018 for marijuana possession.
- During the same year, 90% of all burglaries — including home invasions — and 86% of all motor vehicle thefts went unsolved by law enforcement.
- Money spent enforcing current laws and arresting, jailing, and supervising people should instead be devoted to pursuing serious criminals.



Adult Use Legalization

Marijuana prohibition has caused far more harm than marijuana ever could, not only for those arrested and prosecuted, but for their families and our communities.

According to national polls — including Pew, Gallup, and CNN — more than 60% of Americans support legalizing marijuana for adults' use.

Legalizing marijuana for adult use (21+) would save our state millions in public safety expenses (arresting officers, prosecutors, court time, probation officers, testing labs.)

Could generate \$1 Billion in tax revenue per biennium.



Addressing Common Misconceptions



TEXANS FOR RESPONSIBLE
MARIJUANA POLICY

Driving Under the Influence

- Fatal traffic accident rates in legal marijuana states are no different than those in states where cannabis remains illegal. (Source: American Journal of Public Health)
- "[O]n average, medical marijuana law states had lower traffic fatality rates than non-MML states. Medical marijuana laws are associated with reductions in traffic fatalities, particularly pronounced among those aged 25 to 44 years. ... It is possible that this is related to lower alcohol-impaired driving behavior in MML-states." (Source: American Journal of Public Health)

Youth Use

- "The percentage of adolescents in 2018 who used marijuana in the past year was lower than the percentages in 2002 to 2004 and in 2009 to 2013, but it was similar to the percentages in 2005 to 2008 and in 2014 to 2017." (Source: Substance Abuse Mental Health Services Administration, Key Substance Use and Mental Health Indicators in the United States: Results from the 2018 National Survey on Drug Use and Health, 2019)
- “Consistent with the results of previous researchers, there was no evidence that the legalization of medical marijuana encourages marijuana use among youth. Moreover, the estimates reported showed that marijuana use among youth may actually decline after legalization for recreational purposes.” (Source: Association of marijuana laws with teen marijuana use: New estimates from the Youth Risk Behavior surveys, JAMA Pediatrics, 2019)

Crime

- "[M]arijuana legalization and sales have had minimal to no effect on major crimes in Colorado or Washington. We observed no statistically significant long-term effects of recreational cannabis laws or the initiation of retail sales on violent or property crime rates in these states. ... Our results from Colorado and Washington suggest that legalization has not had major detrimental effects on public safety." (Source: The cannabis effect on crime: Time-series analysis of crime in Colorado and Washington State, Justice Quarterly, 2019)
- "Our models show no negative effects of legalization and, instead, indicate that crime clearance rates for at least some types of crime are increasing faster in states that legalized than in those that did not. ... [T]he current evidence suggests that legalization produced some demonstrable and persistent benefit in clearance rates, benefits we believe are associated with the marijuana legalization proponents' prediction that legalization would positively influence police performance." (Source: Marijuana legalization and crime clearance rates: Testing proponent assertions in Colorado and Washington state, Police Quarterly, 2018)

Workplace Safety

Cannabis use is not positively correlated with elevated rates of occupational accidents or injuries.

- “This systematic review investigates the potential link between cannabis use and occupational injury. ...The current body of evidence does not provide sufficient evidence to support the position that cannabis users are at increased risk of occupational injury.” (Source: Systematic review of cannabis use and risk of occupational injury, Substance Use and Misuse, 2020)
- "There is no or insufficient evidence to support ... a statistical association between cannabis use and ... occupational accidents or injuries." (Source : The National Academies of Sciences, Engineering, and Medicine, 2017)
- Marijuana decriminalization is associated with increased probability of employment, particularly for young males, and an average increase of 4.5 percent in weekly earnings. African American males experienced the greatest average wage increase. “This data provides suggestive evidence that marijuana decriminalization laws improve extrinsic labor market outcomes. ... This result is consistent with existing literature that suggests black adults, especially men, stand to benefit the most from removing these penalties.” (Source: Marijuana decriminalization and labor market outcomes, ESSPRI (Economic Self-Sufficiency Policy Research Institute, University of California, Irvine) Working Paper, 2016)

Cannabis ingestion can induce psychosis

Rebecca Haines-Saah, a public health policy expert and professor at the University of Calgary, told VICE there's no evidence to suggest weed directly causes psychosis or illnesses like schizophrenia. There have been studies that have shown links between cannabis use and the early onset of schizophrenia, particularly in people with pre-existing conditions or a family history of mental illness, but those links are far from concrete. Haines-Saah told VICE it's far more likely the patient Brown treated was simply having a bad trip, including anxiety, paranoia, or hallucinations.

Pediatric Admissions

Bonni Goldstein, who has been a pediatrician for 28 years, including 13 as a pediatric emergency room physician, told VICE edible ingestion creates more of a psychoactive effect than just smoking because the THC goes through the liver and creates a metabolite called 11-hydroxy-THC. For this reason, she said cannabis overdoses are most common when people take edibles but even in that case, “you cannot fatally overdose on cannabis,” she said. Symptoms of a cannabis overdose might include paranoia, anxiety, irrationality, feeling like time has stopped, or hallucinations, but she said you can usually talk someone down from those effects. True cannabis psychosis is extremely rare and it’s hard to prove, said Goldstein, who has been a pediatric cannabis specialist for the last ten years.

Goldstein, who worked in the pediatric ER at Los Angeles County/University of Southern California, told VICE Brown’s claim that cannabis consumption can be fatal in kids is not true. “The [Centers for Disease Control] stopped tracking deaths due to cannabis because there were none year after year,” she said.

She pointed to a case out of Colorado where doctors described an 11-year-old’s death from myocarditis (heart inflammation) as a cannabis-associated death because THC was in his system. But those doctors later admitted they couldn’t prove cannabis was the cause of death. Goldstein said THC and CBD are anti-inflammatories.

Pediatric Admissions

“When you have more of a substance around there can be exposure and overdose,” said Goldstein. “That doesn’t make the substance bad.” Goldstein said this really boils down to a parenting issue—she advises parents to keep their cannabis at a distance where kids can’t reach it, or in a locked cabinet, the same as with other prescriptions. She said when a child is admitted to the ER because of cannabis ingestion, generally speaking, there’s no medical intervention necessary—you check their vital signs and, if they’re asleep, wait for them to wake up.

Haines-Saah told VICE in states where weed is legal, parents may also feel more comfortable calling poison control centers or taking their kids to the hospital for accidental cannabis ingestion because they know they aren’t going to get arrested. From 2016 to 2017 in Alberta, there were 20 pediatric ER visits for cannabis ingestion compared to 700 for ingestion of Tide laundry pods.

Substance Abuse: Real Problem, Deserves Real Solutions

- Education and treatment (if necessary) for teens.
- No known fatal overdose because cannabis doesn't affect the body the way other drugs to. No effect on respiratory or cardiovascular systems.
- Claim: Cannabis exposure can cause seizures, coma, and central nervous depression in kids
 - Goldstein said a “coma” in the case of cannabis ingestion could mean the child or adult was sleepy for a few days. “It’s certainly not a coma like a head injury type of coma,” she said. “There’s no toxin and the child is going to wake up.”
 - She said in ten years of being a cannabis doctor, she’s seen two adult patients who took edibles with 100 mg of THC causing them to have seizures. “This is all about knowing what dose to take,” she said, noting California has regulated its edibles to max at 100 mg of THC per package. As for central nervous system depression, Goldstein said that just means sedation.

Slippery Slope

In the US, 27 states have decriminalized marijuana possession. Only 11 have gone on to fully legalize cannabis for adult use.

If Texas decides to repeal marijuana prohibition, it'll require an act of the legislature

Thank you!

Heather Fazio: hfazio@txmjpolicy.org | 512-825-9142

Jax Finkel: Jax@texasnorml.org | 512-785-4602