

Core Attributes of Adult Access Regulations

Adults ought to have the legal option to cultivate personal use quantities of marijuana in private residences

NORML supports the right of individuals to grow their own cannabis as an alternative to purchasing it from licensed retail producers, and maintains that provisions permitting this behavior should be codified in adult use access laws. NORML maintains that the inclusion of legislative provisions protecting the non-commercial home cultivation of cannabis serves as leverage to assure the product available at retail outlets is high quality, safe and affordable. Additionally, permitting home cultivation provides adult consumers with an immediate source of cannabis -- providing an alternative to the illicit market. Such a source is necessary because it typically takes state regulators several months, or even years, following the law's enactment to establish licensed retail operators.

At present, most adult use laws permit this behavior and there exists no compelling state interest to infringe upon it. State regulations governing the alcohol market permit adults the option to legally brew non-commercial quantities of their own alcohol, and it is consistent with this policy to similarly permit home cultivation.

Taxes imposed on either the commercial production or retail sales of cannabis must not be excessive

The commercial production and retail sale of recreational cannabis in legal jurisdictions is presently subject to both excise taxes and sales taxes, similar to many other commercial goods. The taxation of these goods remains popular with elected officials as well with the general public -- particularly among those who do not personally use cannabis, but view the plant's legalization positively as an alternative source of state revenue. The imposition of fair and reasonable taxes on these commercial activities generates support from members of the public who may otherwise show little interest in cannabis law reform. Revenue from retail marijuana taxes is currently being used to fund school construction and other popular programs in various states, as well as to offset administrative and regulatory costs associated with adult use regulatory programs.

Such taxation ought not to apply to non-commercial activities involving cannabis, such as home cultivation or cannabis gifting. Most importantly, taxation on commercial activities should not be so excessive that it incentivizes consumers to obtain cannabis from the illicit or grey market. Studies show that most consumers are comfortable paying a premium price for cannabis available legally at retail stores (up to approximately \$14 per gram), but warn that excessive pricing due to heavy taxation induces consumers to return to the illegal market.

Regulators should not inadvertently create undue barriers of entry for those seeking to participate in the legal adult use marketplace

African Americans and other minorities have historically been disproportionately targeted and adversely impacted by cannabis criminalization. This lack of equity must not persist in an environment where adult use cannabis production and sales are legally regulated.

In order to provide for inclusiveness within the legal industry, regulators should strive to impose nominal to low application fees in order to encourage participation from formerly disenfranchised populations. Further, regulations must not prohibit those with prior criminal records for past violations from seeking to activity participate in the legal marketplace.



The enactment of adult use access regulations ought not to amend or override existing medical use access laws

Laws and regulations governing medical cannabis access to qualified patients exist in a majority of US states. NORML acknowledges that the medical cannabis market and the recreational cannabis market are not necessarily one and the same, and that individual consumers of these markets may possess needs that differ from one another.

For instance, patients may require access to a wider array of products, as well as to products of higher cannabinoid potency (e.g., concentrates), than do those consuming cannabis for recreational purposes. Further, many patients require a consistent supply of cannabis to mitigate chronic conditions, and therefore they should not necessarily be subject to the same sort of taxes, fees, or possession limits that are imposed upon those accessing the adult use market.

Cannabis products sold at retail must be subject to third-party testing in order to assure product quality

Cannabis flower sold at retail must be subject to third-party testing in order to assure that the product is free from unwanted contaminants, such as molds or pesticides. Testing of cannabis and/or cannabis infused products must further identify the precise presence of individual cannabinoids (such as THC and CBD) and terpene content, and such information must be prominently displayed on the products' label. Such testing and labeling ensures that adult consumers have consistent access to a standardized product and have the information necessary to make an informed decision prior to purchase.

Adult use laws ought to include provisions facilitating the automatic review of past criminal records and for the expungement of those records in instances where the past behavior is no longer classified as a criminal offense

Millions of Americans, a disproportionate percentage of whom are young people and minorities, have been subject to a marijuana-related arrests and criminal conviction.

Branding these individuals, many of whom are at an age when they are just beginning their professional careers, as lifelong criminals results in a litany of lost opportunities including the potential loss of employment, housing, voting rights, professional licensing, and student aid and serves no legitimate societal purpose. The imposition of such lifelong penalties is even more punitive in instances where the criminal conviction is related to behavior or activities that have since been legalized and regulated.

In the interest of justice and fairness, NORML maintains that adult use legalization policies must include legislative provisions to facilitate an automatic review of prior criminal records and also include a mechanism to allow for the expungement of such records in instances where the activity is no longer defined as criminal under state law. Some states, like California, already provide for this type of relief, and national polling finds that a supermajority of registered voters support the imposition of policies of sealing and/or expunging the criminal records of those formerly convicted of marijuana-related offenses in now-legal states.

The public use of marijuana in non-designated areas ought to be a violation

The use of cannabis products in public, non-designated spaces (e.g., parks, city streets) ought to be discouraged and penalized via the imposition of civil fines. In addition, regulators should take steps to provide a framework for the allowance of designated social use spaces (e.g., licensed social clubs) whereby adults would have the option to legally consume cannabis outside of their home. Such private spaces would be ideal for visiting tourists and others (such as those tenants who rent in buildings where cannabis use is not

permitted), and ideally would reduce the likelihood of adults consuming cannabis in non-designated public spaces.

Adult use laws ought to include provisions prohibiting employers from discriminating against workers in the practices of either hiring or firing solely because their off-the-job cannabis use

Contrary to the fears of critics, changes in the legal status of cannabis have not been associated with any significant adverse effects on workplace safety and, overall, off-the-job marijuana use has not been statistically associated with increased occupational accidents or injuries – as per the findings of the National Academy of Sciences and others. While cannabis use either prior to or while at work ought not to be accommodated by employers, NORML advocates that policies which impose sanctions for those who are legally engaged in the use of cannabis off-the-job away from work are discriminatory and ought to be discouraged. As long as one's off-the-job cannabis use does not impede one's on-the-job performance, such behavior should be of no concern to employers.

Adult use laws should not contain any provisions amending existing traffic safety laws in a manner that impose arbitrary and non-scientific per se thresholds for the presence of either THC or its metabolite in a driver's blood or urine

Operating a motor vehicle under the influence of a controlled substance is defined as illegal behavior in all 50 states. Amending the illicit status of cannabis under state law does not change this fact. It remains just as illicit to drive under the influence of cannabis post-legalization as it is before legalization.

Most states prosecute drugged driving using an 'effect based' standard. This means that in order to gain a drugged driving conviction, law enforcement officials and prosecutors must establish 1) that a motorist recently ingested a controlled substance and 2) that his or her driving behavior was impaired by this substance.

NORML supports the enforcement of 'effect-based' standards, and has opined for additional tools and resources – such as the use of modified Field Sobriety Testing and the training of additional Drug Recognition Evaluators – to assure that such laws are sufficiently enforced.

By contrast, lawmakers ought to oppose the imposition of proposed per se thresholds, which make it a criminal violation to operate a vehicle with the trace presence of either THC or its inactive metabolite above an arbitrary level in one's blood or urine. These latter policies are not evidence based and are opposed by the majority of experts in the scientific and traffic safety community, including the US National Highway Traffic Safety Administration and the American Automobile Association. This is because, unlike the case with alcohol, maximal levels of either THC or carboxy-THC are not consistently associated with the impairment of psychomotor performance. In addition, residual levels of THC and its metabolite may be detectable for weeks or even months following past consumption – well beyond any reasonable expectation of driver impairment. Consequently, the enforcement of these strict liability standards risks inappropriately convicting unimpaired subjects of traffic safety violations, including those persons who are consuming cannabis legally in accordance with state statutes.

As additional states consider amending their marijuana possession laws, lawmakers would be advised to consider legislative and regulatory approaches to address concerns over DUI cannabis behavior that do not rely on solely on the presence of THC or its metabolites in blood or urine as determinants of guilt in a court of law. Otherwise, the imposition of traffic safety laws may inadvertently become a criminal mechanism for law enforcement and prosecutors to punish those who have engage in legally protected behavior and who have not posed any actionable traffic safety threat.

Those under the age of 21 who possess personal use amounts of cannabis ought to be subject to civil sanctions rather than a criminal arrest

Studies from legal states have determined that marijuana-related arrests fall significantly for adults post-legalization, but that many under 21 [continue](#) to face criminal arrest for marijuana-related activities despite no significant [increase](#) in marijuana use by teenagers. These arrests of young people can potentially result in a lifelong criminal record, as well as the stigmatization and loss opportunities that accompany it (such as the loss of student financial aid and issues finding gainful employment). NORML believes that youth marijuana use and access ought to be discouraged, but also believes that the harms of a criminal arrest carry significant adverse consequences. Therefore, NORML supports provisions decriminalizing low-level marijuana possession offenses by certain youth offenders. In such cases, violators would face civil fines or have the option of other non-criminal sanctions (e.g., participation in a drug education class at no cost to the offender), but would be spared from a criminal arrest and criminal record.