



CANNABIS REGULATION FACT SHEET


I. Introduction

This fact sheet surveys cannabis product restrictions in states that have legalized adult-use cannabis. Product design is a critical tool for reducing the appeal of cannabis product to children, especially edible cannabis products. With legalization, states have seen an increase in accidental consumption of cannabis products by children.¹ This is understandable given that cannabis edibles can easily be mistaken for regular food and candy without proper regulation. Preventing accidental ingestion of cannabis products by children is critical because their smaller size puts them at higher risk for cannabis poisoning. This fact sheet examines 5 policy variables related to product design and the appeal to children: (1) General prohibition on appealing to children, (2) Product color restrictions, (3) Product shape restriction, (4) Flavor restrictions, and (5) Prohibition of products that imitate non-cannabis products that appeal to children. Section II of this fact sheet provides a research summary that discusses the prevalence of each policy variable and the variation in policy within each. Section III contains a table that covers the policy approach of each state and allows side-by-side comparison of each state.

II. Research Summary:

a. State Law

This section examines 5 state policy variables used to analyze cannabis products in states that allow adult-use cannabis. The prevalence of each variable is explained, and a range of policy approaches is provided when necessary. Although 20 U.S. jurisdictions have legalized adult-use cannabis, Washington, D.C. and Virginia have not yet enacted laws regulating the sale of adult-use products, although possession in small amounts is decriminalized. For this reason, the chart reads N/A in these jurisdictions. Additionally, in Illinois, although state laws and regulations governing adult-use cannabis exist, there are no such state



laws or regulations which cover the variables studied for purposes of this fact sheet. These columns are marked with an “X.” Similarly, in Rhode Island, on May 25th, 2022, Governor McKee signed a bill into law legalizing adult-use cannabis. The law directs the state agency to establish requirements to order a prohibition on the sale of a cannabis products found especially appealing to persons under twenty-one (21) years of age. However, because bill was signed into law recently, the state agency has not yet issued regulations. Therefore, aside from the first variable, each column is marked with “NC” which means “not yet covered.”

General prohibition on appealing to children:

This variable addresses whether a state statute or regulation includes language that limits the sale and/or manufacture of a product that appeals to children/minors generally. Twelve of the 20 jurisdictions include such language: Alaska, California, Colorado, Connecticut, Maine, Massachusetts, Michigan, New York, Oregon, Rhode Island, Vermont, Washington. Of these 12 jurisdictions, four (Alaska, California, Colorado, Connecticut) prohibit the production and/or sale of cannabis products that would appeal to “children.” Seven states use language prohibiting the appeal to people under age 21 (Maine, Massachusetts, New York, Oregon, Rhode Island, Washington, Vermont). Michigan uses “minors” as well as “minors aged 17 and younger” when describing its prohibitions.


Restrict specific colors (Red, Oranges, Yellow, Green):

This variable aimed to identify whether states have statutes or regulations which prohibit the sale and/or manufacture of products which appear in certain colors. Interestingly, none of the laws or regulations in the 20 states with adult-use programs include language which limits or discusses the color of the actual product, though many address the packaging, labeling, and advertising

Restrict novel shapes/May only be in geometric shapes:

Nine states restrict the sale and/or production of products formed in certain shapes, though these jurisdictions take varying approaches. These states include Arizona, California, Colorado, Connecticut, Maine, Michigan, Montana, New Jersey, and Oregon. Only two states, Connecticut and Maine, expressly prohibit the sale and/or production of products in the shape of anything other than something geometric like a “cuboid or sphere.” Seven states prohibit the sale of products in the shape of some or all of the following items: human, animal, fruit, toy, cartoon, insect, character, or vehicle. These states include Arizona, California, Colorado, Maine, Michigan, New Jersey, and Oregon. Montana is the only states which does not specifically name a shape, but does note that the products cannot be in a shape “attractive to children.”

Restrict specific flavors that appeal to children:



Only one state, Oregon, has a law or regulation that expressly restricts the sale/manufacture of flavored products that appeal to children. Specifically, the rule states “A processor may not process, transfer or sell a marijuana or hemp item: that by shape, design, or flavor is likely to appeal to minors...” The only other state which makes mention of the sale/production of flavored products is Michigan. In that regulation, it states that “Edible marijuana products that are geometric shapes and fruit flavored are permissible.” However, there is no express restriction on flavors.

Prohibits products that imitate non-cannabis products that are appealing to children:

Twelve states include language that prohibits products that imitate non-cannabis products that appeal to children. These states include: Alaska, Arizona, California, Connecticut, Maine, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, and Washington. There are differing approaches to the language used to communicate this restriction. Three states, Alaska, Arizona, and Washington prohibit products which “closely resemble a food or drink item marketed to children” or have “similarities to products marketed” to children/people under age 21. California, Michigan, and Montana note a prohibition on products that are “easily confused with commercially sold products.” Maine, Oregon, and Nevada prohibit products which are “modeled after non-cannabis products” sold to or marketed to children/those under age 21. New Jersey is an outlier and bans the use of a commercially manufactured or trademarked food product unless it is used in a way that “renders it unrecognizable in final ingestible” form. New Mexico is also an outlier and prohibits product designs that use cartoon characters to “mimic any other product brand.” Connecticut bans products which “bear notable likeness to a commercial product not containing cannabis.” In the section below, I address the language used in Connecticut in greater detail because similar descriptions are used in a handful of states. However, for purposes of this variable, it seems that Connecticut aims to ban products which have similarities to commercially marketed products.

Other notes:

Five states (Colorado, Connecticut, Michigan, Nevada, New Jersey) prohibit products which “bear the likeness” of specific characteristics appealing to children. Specifically, Colorado, Michigan, Nevada, and New Jersey use almost identical language and prohibit products which “bear the likeness or contain characteristics of a realistic or fictional human, animal, fruit, caricature, or cartoon renderings.” Interestingly, Colorado, Michigan, and New Jersey include similar but additional language to describe a ban on shapes that appear as humans, animals, fruit, etc. Connecticut also uses the term “bears notable likeness” but it refers specifically to a prohibition on designing products that look like other commercial products that are sold and appear to children, as discussed above.

III. Research Tables

N/A stands for “not applicable.” N/A is used when the variable is not applicable because the jurisdiction does have a licensed adult-use market (D.C. and VA).

State	Citation	General Prohibition on Appealing to Children	Restricts Specific Colors	Novel Shapes/Geometric Only	Restrict Specific Flavors that Appeal to Children	Imitates non-cannabis products that are appealing to children	Notes
AK	AK ST § 17.38.190 ; 3 AAC 10	Y	N	N	N	Y	
AZ	A.R.S. § 36-2860	N	N	Y	N	Y	
CA	West's Ann.Cal.Bus. & Prof.Code § 26130 ; 4 CCR § 17300 ; 4 CCR § 17408	Y	N	Y	N	Y	
CO	1 Colo. Code Regs. § 212-3-6-110 ; C.R.S.A. § 44-10-203	Y	N	Y	N	N	Bears the likeness of specific characteristics appealing to children
CT	C.G.S.A. § 21a-421j ; Connecticut Regulations, Section 21a-421j-26	Y	N	Y	N	Y	Bears the likeness of specific characteristics appealing to children
DC	N/A	N/A	N/A	N/A	N/A	N/A	
IL	X	X	X	X	X	X	
ME	28-B M.R.S.A. § 703 ; 18-691 CMR Ch. 1, § 3.8	Y	N	Y	N	Y	

State	Citation	General Prohibition on Appealing to Children	Restricts Specific Colors	Novel Shapes/Geometric Only	Restrict Specific Flavors that Appeal to Children	Imitates non-cannabis products that are appealing to children	Notes
MA	MA ST 94G § 4; 935 CMR 500.335	Y	N	N	N	N	
MI	M.C.L.A. 333.27206; M.C.L.A. 333.27961; Mich. Admin. Code R 420.403	Y	N	Y	N	Y	Bears the likeness of specific characteristics appealing to children
MT	MCA 16-12-208	N	N	Y	N	Y	
NV	N.R.S. 678B.520	N	N	N	N	Y	Bears the likeness of specific characteristics appealing to children
NJ	N.J.S.A. 24:6I-35; N.J.A.C. 17:30-11.5	N	N	Y	N	Y	Bears the likeness of specific characteristics appealing to children
NM	N. M. S. A. 1978, § 26-2C-20	N	N	N	N	Y	
NY	McKinney's Cannabis Law § 83	Y	N	N	N	N	
OR	OAR 845-025-3220	Y	N	Y	Y	Y	
RI	RI ST § 21-28.11-5	Y	NC	NC	NC	NC	
VT	7 V.S.A. § 881; 7 V.S.A. § 866; 7 V.S.A. § 868	Y	N	N	N	N	
VA	N/A	N/A	N/A	N/A	N/A	N/A	
WA	WA ADC 314-55-077; WA ADC 314-55-105	Y	N	N	N	Y	



Alaska

AK ST § 17.38.190

Provides the Marijuana Control Board with authority to implement reasonable restrictions on the advertising and display of marijuana and marijuana products and requirements to prevent the sale or diversion of marijuana and marijuana products to persons under the age of 21.

3 AAC 306.510

A licensed marijuana product manufacturing facility may not manufacture or sell any product that closely resemble a familiar food or drink item including candy or is packaged to look like candy or in bright colors or with cartoon characters or pictures that would appeal to children.

Arizona

A.R.S. § 36-2860

A retailer may not:

- Sell products that resemble a human, animal, insect, fruit, toy, or cartoon;
- Sell or advertise a marijuana product that resembles or imitates a food or drink brand marketed to children.

California

West's Ann.Cal.Bus. & Prof.Code § 26130

- The department shall promulgate regulations governing the licensing of cannabis manufacturers and standards for the manufacturing, packaging, and labeling of all manufactured cannabis products.
- Edible cannabis products shall be not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.

4 CCR § 17300


The following cannabis products may not be sold:

- Any cannabis product that the Department determines, on a case-by-case basis, is attractive to children, as specified in section 17408;
- Any cannabis product in the shape of, or imprinted with the shape, either realistic or caricature, of a human being, animal, insect, or fruit.

4 CCR § 17408

If the product is an edible, the labeling may not contain a picture of the product.

Colorado



1 Colo. Code Regs. § 212-3-6-110

Edible products shaped like a human, animal, or fruit or bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit is prohibited.

C.R.S.A. § 44-10-203 (effective until 1/1/23)

In promulgating rules pursuant to this section, the state licensing authority may seek the assistance of the department of public health and environment before promulgating rules on the following subjects the prohibition on or regulation of additives to any regulated marijuana product designed to make the product more appealing to children.

Connecticut

C.G.S.A. § 21a-421j

The commissioner shall adopt regulations prohibiting cannabis product types that appeal to children.

Connecticut Regulations, Section 21a-421j-26


- Edible cannabis products capable of maintaining a defined external form or outline shall be in cuboid or spherical form, or such other form as approved by the commissioner.
- Cannabis shall not bear notable likeness to a commercial product not containing cannabis.
- Cannabis shall not be designed, molded or created in a form that is obscene or indecent, may encourage use of cannabis by persons under the age of twenty-one, or is customarily associated with persons under the age of twenty-one.

Maine

28-B M.R.S.A. § 703

Edible marijuana products:

- May only be sold in geometric shapes or in the shape of a marijuana leaf;
- May not be manufactured in the distinct shape of a human, animal or fruit;
- May not be specifically designed to make the product appeal to a person under age 21



18691 R Ch. 1, § 3.8

A cannabis products manufacturing establishment may not:

- Manufacture a cannabis product that by its shape or design is likely to appeal to persons under 21 years of age, including:
 - Products that are modeled after non-cannabis products commonly consumed by and marketed to persons under 21 years of age; or
 - Products in the distinct shape of a human, animal or fruit.

Massachusetts

MA ST 94G § 4

The Cannabis Control Commission has the authority to implement rules including:

- Requirements to establish a process allowing the commission to order a prohibition on the sale of a marijuana product found especially appealing to persons under 21; and
- Requirements to establish a process allowing a marijuana product manufacturer to voluntarily submit a product, its packaging and intended marketing to the commission for review of whether the product is especially appealing to persons under 21.

935 CMR 500.335

The commissioner may remove products that are appealing to people under age 21.

Michigan

M.C.L.A. 333.27206

The marijuana regulatory agency shall establish restrictions on edible marijuana-infused products to prohibit shapes that would appeal to minors.

M.C.L.A. 333.27961

No marijuana processor may process and no marijuana retailer may sell edible marijuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.

Mich. Admin. Code R 420.403



A producer of edible marihuana product may not:

- Produce an edible marihuana product in a shape or with a label that would appeal to minors aged 17 years or younger.
- Produce an edible marihuana product that is associated with or has cartoons, caricatures, toys, designs, shapes, labels, or packaging that would appeal to minors.
- Package edible marihuana products in a package that can be easily confused with a commercially available food product.
- Produce edible marihuana products in the distinct shape of a human, animal, or fruit, or a shape that bears the likeness or contains.
- Characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.
- Edible marihuana products that are geometric shapes and fruit flavored are permissible.

Montana

MCA 16-12-208

Edible marijuana products manufactured as candy may not be sold in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.

Nevada

N.R.S. 678B.520

A cannabis production facility shall not product cannabis products that:


- Is/appear to be a lollipop
- Bears the likeness or contains characteristics of a real or fictional person, animal or fruit, including, without limitation, a caricature, cartoon or artistic rendering
- Is modeled after a brand of products primarily consumed by or marketed to children.

New Jersey

N.J.S.A. 24:6I-35

The commission shall adopt rules and regulations requiring that edible cannabis products shall not be manufactured, marketed, or sold that are in the shape of, or a shape bearing the likeness or containing characteristics of, a realistic or fictional human, animal, or fruit, or part thereof, including artistic, caricature, or cartoon renderings.

N.J.A.C. 17:30-11.5

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- No ingestible product shall be in the shape of, or a shape bearing the likeness or containing characteristics of, a realistic or fictional human, animal, or fruit, or part thereof, including artistic, caricature, or cartoon renderings.
 - A commercially manufactured or trademarked food product shall not be used as an ingestible product, unless it is used in a way that renders it unrecognizable in the final ingestible product and the product is not advertised as containing the commercially manufactured or trademarked food product.

New Mexico

N. M. S. A. 1978, § 26-2C-20

The agency shall promulgate rules that prohibit the advertising and marketing of products that use predatory marketing and advertising practices targeting minors or that are designed using cartoon characters or to mimic any other product brand.

New York

McKinney's Cannabis Law § 83

No processor of adult-use cannabis shall produce any product which, in the discretion of the board, is designed to appeal to anyone under the age of twenty-one years.

Oregon

OAR 845-025-3220

A processor may not process, transfer or sell a marijuana or hemp item:

- That by shape, design, or flavor is likely to appeal to minors including but not limited to:
 - Products that are modeled after non-cannabis products primarily consumed by and marketed to children;
 - Products in the shape of an animal, vehicle, person or character.

Rhode Island


RI ST § 21-28.11-5

The Rhode Island Office of Cannabis Regulation shall establish requirements to establish a process allowing the commission to order a prohibition on the sale of a cannabis product found especially appealing to persons under twenty-one (21) years of age.

The agency has not yet issued regulations because the bill was signed into law in May of 2022.

Vermont

7 V.S.A. § 881



The Board shall adopt regulations that address additives to cannabis and cannabis products that are toxic or designed to make the product more addictive and more appealing to persons under 21 years of age.

7 V.S.A. § 866

The Board, in consultation with the Department of Health, shall adopt rules in accordance with section 881 of this title to prohibit cannabis products or the packaging of such products that are designed to make the product more appealing to persons under 21 years of age;

7 V.S.A. § 868

Cannabis and cannabis products which are designed to make the product more appealing to persons under 21 years of age are prohibited.

Washington

WA ADC 314-55-077

A cannabis processor may not infuse food or drinks with cannabis if the product design is similar to commercially available products marketed for consumption by persons under 21 years of age, as defined by WAC 314.55.105 (1)(c).


WA ADC 314-55-105

Products may not be “especially appealing to persons under the age of 21” which includes but is not limited to:

- The use of cartoons;
- Bubble-type or other cartoon-like font;
- A design, brand, or name that resembles a noncannabis consumer product that is marketed to persons under the age of 21;
- Symbols or celebrities that are commonly used to market products to persons under the age of 21;
- Images of persons under the age of 21; or
- Similarities to products or words that refer to products that are commonly associated or marketed to persons under the age of 21.

This document was developed by Brooke Torton, Senior Staff Attorney at the Network for Public Health Law- Eastern Region. The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.

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¹ See e.g., Dilley JA, Graves JM, Brooks-Russell A, Whitehill JM, Liebelt EL, *Trends and Characteristics of Manufactured Cannabis Product and Cannabis Plant Product Exposures Reported to US Poison Control Centers, 2017-2019*, JAMA Netw. Open. 2021;4(5) (May 24, 2021), available at <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2780068>