

MEMORANDUM

TO: Cannabis Control Commission; Shawn Collins, Executive Director
FROM: Commission Staff
DATE: October 18, 2018
SUBJECT: **Consumer Delivery**

- I. Introduction
- II. Policy Issues in Consumer Delivery
- III. Research Insights
- IV. Concluding Thoughts

I. Introduction

Under G. L. c. 94G, § 4(b)(1), the Cannabis Control Commission (Commission) has the authority to license the “delivery of [adult-use] marijuana or marijuana products to consumers.” The Medical Use of Marijuana Program, currently administered by the Massachusetts Department of Public Health, allows for the delivery of product to patients. 105 CMR 725.000. In response to a request from the Commission, Commission staff developed this memorandum to provide a thorough policy review regarding the topic of consumer delivery. This memorandum offers an overview of how other states have approached the regulation of consumer delivery, followed by common policy issues, and a research overview. This memorandum is intended only to inform the Commission’s discussion during public deliberation and does not provide policy recommendations.

The Legislature contemplated that marijuana and marijuana products would be delivered and transported, with the former being referenced more frequently than the latter.¹ Certain licensing types, i.e., Marijuana Cultivators, Craft Marijuana Cultivator Cooperatives, Marijuana Product Manufacturers, Marijuana Retailers, as they are defined have the explicit authority to transport marijuana or marijuana products.² The Commission also has the authority to “establish and provide for issuance of additional types or classes of licenses to operate marijuana-related businesses, including licenses that authorize only . . . limited delivery of marijuana or marijuana products to consumers.”³ If the Commission were to allow for home delivery, it would also need to impose a process for identification verification,⁴ although it would be limited in its ability to collect any additional identifying information other than an identification for the adult-use program.⁵

¹ See, e.g., G.L. c. 94G, § 15(b) (discussing transportation).

² G.L. c. 94G, § 1.

³ G.L. c. 94G, § 4(b)(1).

⁴ See G.L. c. 94G, § 4(a1/2)(xxi) (requiring the Commission to establish “requirements and procedures to prevent the . . . delivery . . . of marijuana to persons under 21 years of age, or the purchase of marijuana on behalf of a person under 21 years of age”).

⁵ See G.L. c. 94G, § 4(c) (providing that regulations shall not require “a customer to provide a marijuana retailer with identifying information other than identification to determine the customer’s age and shall not require the

Under G.L. c. 94G, the distinction between delivery and transportation is not clear.⁶ Although it is not defined under the statute, “delivery” is used in describing different types of transfer. On the one hand, delivery can involve the transfer of marijuana and marijuana products between entities, but not to the consumer. A “Craft marijuana cultivator cooperative” for example, can “deliver marijuana to marijuana establishments but not to consumers.”⁷ It can also involve the transfer to a consumer. For instance, a Marijuana Retailer can “sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.”⁸

Under G.L. c. 94G, municipalities can impose certain limitations on the operation of Marijuana Establishment within their borders. It is not clear that municipalities could preclude a licensed Marijuana Retailer from delivering marijuana and marijuana products to consumers.⁹ It could be argued that an attempt to impose a limitation would be in direct conflict with the explicit language of the statute authorizing retailers to conduct this type of activity.¹⁰ Moreover, the Legislature established that “[n]o city or town shall prohibit the transportation of marijuana or marijuana products or adopt an ordinance or by-law that makes the transportation of marijuana or marijuana products unreasonably impracticable.” If the Commission were to interpret transportation broadly to include consumer delivery, this would further support the argument that municipalities could not prevent Marijuana Retailers, or perhaps even an additional license type, from providing delivery services to consumers. To the extent that the Commission were to draft regulations allowing for consumer delivery, it would be important to consider the ability of a municipality, if any, to limit delivery to consumers and to distinguish transportation from delivery.

National Overview:

Oregon, Nevada, and California currently allow for consumer delivery of adult-use cannabis products, and Washington state is reviewing draft regulations to be considered in December 2018. A bill legalizing direct-to-consumer deliveries was recently defeated in the Colorado legislature. Washington, D.C.’s robust “gray” market revolves around consumer delivery, and amendments to New Jersey’s legalization proposal includes the policy as well.

Washington, D.C. approved Initiative 71, which allows adults to possess up to two ounces of marijuana to be consumed on private property, but forbids buying or selling it due to

marijuana retailer to acquire or record personal information about customers other than information typically required in a retail transaction”).

⁶ See G.L. c. 138, § 22 (authorizing licensees to “transport and deliver anywhere in the Commonwealth” alcoholic beverages or alcohol).

⁷ G.L. c. 94G, § 1.

⁸ *Id.* Cf. 935 CMR 500.002 (providing that Marijuana Retailer . . . are prohibited from delivering cannabis or marijuana products to consumers”).

⁹ This is not the case for alcohol delivery in the Commonwealth. Retail alcohol licenses are managed by the local board, and through this process, municipalities may put conditions on a retailer’s license, such as one prohibiting delivery. Under G.L. c. 138, § 22, the delivery of alcohol is permitted as long as the licensee holds a transportation permit from the Alcoholic Beverage Control Commission to transport and deliver alcoholic beverages sold by the licensee directly to its customers. If a package store has a transportation permit it can deliver alcohol to customers anywhere in the municipality and the Commonwealth - even a so-called “dry” town. .

¹⁰ G.L. c. 94G, § 3(a) (“A city or town may adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with this chapter or with regulations made pursuant to this chapter”).

lack of approval from the United States Congress.¹¹ Under the legal ambiguity surrounding Initiative 71, however, a consumer may buy an item, good, or service, and then receive a free marijuana product gifted or donated by the vendor.¹² With five dispensaries exclusively serving medical marijuana patients and officials cracking down on “pop-up” gifting events, the adult-use market in D.C. trends towards consumer delivery.¹³ This emerging gray market business model offers delivery and meet up/pick up services, where marijuana is gifted with the purchase of other goods and services such as “high-priced cookies, juice, clothing or even artwork.”¹⁴

According to regulations for medical-use marijuana, medical dispensaries in Washington, D.C. are prohibited from transporting or delivering medical marijuana to patients or caregivers, or from a cultivation center to a registered dispensary where the medical marijuana is to be sold.¹⁵

California statute permits deliveries by a licensed retailer, microbusiness or nonprofit.¹⁶ To date, California has issued 128 permits to marijuana retailers allowing delivery to consumers’ homes.¹⁷ An online marketplace has grown with delivery web applications which some, by their own account, are approaching 3,000,000 deliveries since the sale of adult-use marijuana began in January 2018.¹⁸

California’s cannabis agencies are currently operating under emergency regulations, effective until the non-emergency rulemaking process is complete. California’s proposed regulations¹⁹ provide that a “delivery employee may deliver to any jurisdiction within the State of California.”

Oregon permits the delivery of marijuana to a residence,²⁰ limiting the total maximum value of marijuana that may be carried in a delivery vehicle at any one time to \$3000 retail value.²¹ According to the City of Portland, as of September 14, 2018, the city has issued six

¹¹ https://mayor.dc.gov/sites/default/files/dc/sites/mayormb/release_content/attachments/I-71Factsheet.pdf; https://mayor.dc.gov/sites/default/files/dc/sites/mayormb/release_content/attachments/I71QA.pdf.

¹² <https://www.cnbc.com/2018/09/15/heres-what-you-need-to-know-about-dc-marijuana.html>

¹³ <https://www.cnbc.com/2018/09/15/heres-what-you-need-to-know-about-dc-marijuana.html>

¹⁴ See https://www.washingtonpost.com/local/you-can-get-weed-delivered-to-your-door-in-dc-just-like-pizza-but-is-it-legal/2017/05/22/186da532-3cb9-11e7-8854-21f359183e8c_story.html?noredirect=on&utm_term=.d73a4e0126f6

¹⁵ Title 22-C5703, available at

<https://dchealth.dc.gov/sites/default/files/dc/sites/doh/publication/attachments/MEDICAL%20MARIJUANA.2018.updates.pdf>.

¹⁶ Cal Bus & Prof Code § 26090(a), available at

https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=10.&title=&part=&chapter=9.&article=

¹⁷ <https://www.forbes.com/sites/laurenterry/2018/09/28/a-tale-of-two-markets-cannabis-delivery-in-california-and-oregon/#4793345970db>

¹⁸ <https://www.forbes.com/sites/laurenterry/2018/09/28/a-tale-of-two-markets-cannabis-delivery-in-california-and-oregon/#4793345970db>

¹⁹ Cal. Code Regs. tit. 16, § 5416(d), available at <https://cannabis.ca.gov/wp-content/uploads/sites/13/2018/07/Bureau-of-Cannabis-Control-Proposed-Text-of-Regulations.pdf>

²⁰ 845-025-2880,

https://www.oregon.gov/olcc/marijuana/Documents/Rules/OAR_845_025_Division25_RecreationalMarijuanaRules.pdf

²¹ 845-025-2880,

https://www.oregon.gov/olcc/marijuana/Documents/Rules/OAR_845_025_Division25_RecreationalMarijuanaRules.pdf; <https://www.oregon.gov/olcc/marijuana/Pages/FAQs-Licensing-Transportation-Delivery.aspx>

independent delivery licenses (courier license), which allow for the home delivery of marijuana.²² These licenses require applicants to comply with dispensary security procedures, such as security cameras, commercial locks on doors, storage, and tracking protocols²³. There is criticism²⁴ that couriers are often forced to return to the headquarters in between each order to stay within the dollar limitations. That back-and-forth means most delivery services only serve areas in their direct vicinity in order to process a higher number of orders.²⁵

II. Policy Issues in Consumer Delivery

Issue 1: Security

In California, state regulations require all delivery orders to be performed by a state-licensed retailer. Drivers may only deliver in nondescript enclosed vehicles to an address from which an order has been placed.²⁶ Drivers must ensure that the cannabis goods are locked in a box that is secured on the inside of the vehicle and are not visible to the public.²⁷ Vehicles used for deliveries are required to be outfitted with a dedicated GPS for identifying the geographic location of the delivery vehicle.²⁸ California limits the amount of cannabis goods in a vehicle at any given time to \$10,000 in retail value.²⁹

The California Police Chiefs Association, the League of California Cities and United Food and Commercial Workers Western States Council have lobbied against the proposed statewide regulations permitting the delivery of adult-use marijuana, raising concerns regarding security, verification of identity and legal age, and licensing of delivery workers.³⁰ Additionally, some law enforcement officials believe a delivery vehicle will be a target for robberies, with both marijuana and cash on board.

Oregon requires delivery vehicles to comply with truck safety rules and load securement requirements.³¹ As previously discussed, delivery vehicles may only carry up to \$3,000 in retail value worth of marijuana items.³² Oregon prohibits off-hours deliveries, that is, between 9 p.m. and 8 a.m.³³ It also requires that marijuana and products be kept in a lock-box securely affixed into the delivery vehicle.³⁴ Under state regulations, a retailer may deliver marijuana items only

²² <https://www.portlandoregon.gov/civic/71822>

²³

https://www.oregon.gov/olcc/marijuana/Documents/Rules/OAR_845_025_Division25_RecreationalMarijuanaRules.pdf

²⁴ <https://www.forbes.com/sites/laurenterry/2018/09/28/a-tale-of-two-markets-cannabis-delivery-in-california-and-oregon/#7a098d0070db>

²⁵ *Id.*

²⁶ <http://www.latimes.com/politics/la-pol-ca-california-pot-deliveries-state-regulations-20180917-story.html>

²⁷ <https://cannabis.ca.gov/wp-content/uploads/sites/13/2018/06/Readopt-Text-Final-Clean-6.7.18.pdf>

²⁸ *Id.*

²⁹ *Id.*

³⁰ <http://www.latimes.com/politics/la-pol-ca-california-pot-deliveries-state-regulations-20180917-story.html>

³¹ <https://www.oregon.gov/olcc/marijuana/Pages/FAQs-Licensing-Transportation-Delivery.aspx>

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https://www.oregon.gov/olcc/marijuana/Documents/Rules/OAR_845_025_Division25_RecreationalMarijuanaRules.pdf

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https://www.oregon.gov/olcc/marijuana/Documents/Rules/OAR_845_025_Division25_RecreationalMarijuanaRules.pdf

³⁴ *Id.*

to a location within the city in which the licensee is licensed, if a licensee is located within a city; or unincorporated areas of the county in which the licensee is licensed, if a licensee is located in an unincorporated city or area within the county. A retailer may not deliver marijuana items to a residence located on publicly-owned land.³⁵

Related Issues for Consideration

The concerns related to safety and security may require further study. The Commission may look to efforts to reduce incentives to commit crime against a delivery driver. Some delivery providers track routes, so that deliveries are tracked in real time and are prohibited for certain locations, e.g., publicly owned buildings or lands. Security risks might also be minimized by limiting the amount of cash and/or product a delivery driver may hold or requiring electronic or check payments.

Issue 2: Municipal Control

Pursuant to California statute, a “local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee.” The Bureau of Cannabis Control interprets state law as permitting delivery statewide, including those municipalities that have banned marijuana shops.³⁶ Meanwhile, municipalities that have banned cannabis sales have interpreted state law as allowing them to take action against deliveries in their jurisdictions.

Local officials argue that while the law may allow delivery vehicles on “public roads,” it does not permit marijuana sales on the doorsteps of homes in municipalities where sales are banned.³⁷ California is seeking to reduce confusion over the law with the proposed new regulations, which “clarify that a licensed retailer who performs delivery may deliver to any jurisdiction within the state of California.”³⁸

As previously noted, under Oregon state regulations, a retailer may deliver marijuana items only to a location within the city in which the licensee is licensed, if a licensee is located within a city; or unincorporated areas of the county in which the licensee is licensed, if a licensee is located in an unincorporated city or area within the county. A retailer may not deliver marijuana items to a residence located on publicly-owned land.³⁹

Related Issues for Consideration

Regarding local control, unlike the case of social consumption, the Commission’s enabling statute does not require municipalities to affirmatively approve delivery through a ballot vote. An important consideration is the potential impact on municipalities of allowing for delivery to consumers including, as noted above, whether municipalities have the ability to exert local control.

³⁵ Id.

³⁶ Cal Bus & Prof Code § 26090(a), *available at* https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=BPC&division=10.&title=&part=&chapter=9.&article=; [https://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20\(Marijuana\)_1.pdf](https://www.oag.ca.gov/system/files/initiatives/pdfs/15-0103%20(Marijuana)_1.pdf).

³⁷ <http://www.latimes.com/politics/la-pol-ca-california-pot-deliveries-state-regulations-20180917-story.html>

³⁸ Id.

³⁹ Id.

Issue 3: Social Equity

San Francisco, CA

Currently, the San Francisco Office of Cannabis is accepting applications for its Equity Program or as an Equity Incubator Program. These applicants must meet certain equity conditions to qualify. Equity applicants may apply to various licenses, include a “delivery only retailer (medical and adult use)” license.⁴⁰

Los Angeles, CA

Under Los Angeles’ equity program, the city council set up a neighborhood health fund that will direct a portion of city revenue from taxing marijuana businesses to pay for community beautification, addiction treatment, youth extracurricular education, and mental health services in communities affected by the war on drugs. Taxes from legal cannabis will also go to community-based legal service providers that have already helped at least 4,500 people petition to have their convictions for low-level nonviolent crimes, such as drug possession and petty theft, changed from felonies to misdemeanors.⁴¹

Related Issues for Consideration

There are very few social equity models in the regulation of the cannabis industry in the US. Massachusetts is one of the leaders on this front in all areas, including in the context of delivery. The Commission may consider conducting further research to identify business models for delivery business – for example, not requiring a store front, etc., thereby decreasing capital requirements. It may also want to consider allowing a delivery-only license type for social equity applicants, rather than requiring a parent license type. It is also notable that some delivery services are working with licensees to hire agents with previous convictions. The Commission may decide to impose similar social equity requirements on delivery companies as it does for other Marijuana Establishment licensees.

Issue 4: Traffic

Traffic has been pointed to as a factor for the discrepancies between the vibrancy of the California and Oregon delivery markets.⁴² In less dense areas, it may be faster to drive yourself to the local dispensary. However, in traffic-congested Los Angeles, it may be much more convenient to have marijuana delivered.

Issue 5: Diversion to Youth

Under current California regulations, prior to providing cannabis goods to a delivery customer, a delivery employee shall confirm the age and identity of the customer.⁴³ Some

⁴⁰ <http://blog.margolinlawrence.com/topic/social-equity-program>

⁴¹ <https://www.yesmagazine.org/peace-justice/with-marijuana-now-legal-la-goes-further-to-make-amends-for-the-war-on-drugs-20180118>; <https://patch.com/california/los-angeles/la-may-use-marijuana-revenue-health-fund-minorities>

⁴² <https://www.forbes.com/sites/laurenterry/2018/09/28/a-tale-of-two-markets-cannabis-delivery-in-california-and-oregon/#4793345970db>

⁴³ <https://cannabis.ca.gov/wp-content/uploads/sites/13/2018/06/Readopt-Text-Final-Clean-6.7.18.pdf>

electronic delivery services used in California require identification both at the time of sale and the time of delivery.

In Oregon, at the time of delivery, the individual performing delivery must check the identification of the individual to whom delivery is being made in order to determine that it is the same individual who submitted the order, that the individual is 21 years of age or older, and must require the individual to sign a document indicating that the items were received.⁴⁴

Alcohol Delivery

The delivery of alcohol in Massachusetts is a helpful analogous model that may provide insight. The Alcohol Beverages Control Commission (ABCC) allows for the transportation and delivery of alcoholic beverages or alcohol to consumers, although currently only about 10% of licensees provide this service. A liquor store can apply for a “Transportation and Delivery Permit” to deliver directly to consumers using its own vehicles and employees.⁴⁵ Unless the municipality has imposed restrictions on the license, which is state issued, but managed by the local board, or enacted ordinance or bylaws, a licensee with a state-issued permit can deliver both within its borders and to other municipalities, including so-called dry towns.⁴⁶ During the delivery, the licensee must comply with certain labeling and identification requirements or be subject to disciplinary action.⁴⁷

A liquor store can also enter into an arrangement with a website,⁴⁸ or mobile application provider, to electronically process home delivery sales, but the liquor store itself would conduct the delivery. It can enter into similar arrangements with express transportation services, e.g., FedEx or UPS, which would be responsible for complying with the identification-verification requirement. Because these third-parties collect a flat-fee in advance, and not a portion of the actual sale on delivery, these transactions do not pose the same risks as those posed by cash transactions.

III. Research Review on Consumer Delivery

Public Safety and Welfare

Since cannabis laws preceded the research, what is known about any cannabis delivery mechanism, i.e. direct to consumer delivery, is limited. Theoretically, cannabis policy risks may mimic those associated with tobacco and alcohol policies. In a 2017 peer-reviewed commentary, Beau Kilmer, a prominent drug policy researcher, reiterated that there is “tremendous uncertainty

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https://www.oregon.gov/olcc/marijuana/Documents/Rules/OAR_845_025_Division25_RecreationalMarijuanaRules.pdf

⁴⁵ <https://www.mass.gov/how-to/apply-for-an-alcoholic-beverages-transportation-and-delivery-permit-abcc>

⁴⁶ G.L. c. 138, § 22 (providing that “[l]icensees for the sale of alcoholic beverages or alcohol, . . . may transport and deliver anywhere in the commonwealth alcoholic beverages or alcohol lawfully bought or sold by them, in vehicles owned or leased by them or their employees, if each vehicle used for such transportation and delivery is covered by a permit issued by the commission”)

⁴⁷ Id.

⁴⁸ This operational model shares similarities with Eaze, which is discussed above.

about the net effect of cannabis legalization on public health⁴⁹ and public safety. The public health and safety concerns often include: diversion to and consumption by individuals under 21, over-consumption by any age cohort, second-hand smoke or vapor, public impairment, cannabis-impaired driving, and related crime, etc. The research examining these outcomes in states with medical and/or adult-use laws remains mixed or unstudied, likely due to the heterogeneity inherent in cannabis policy design and the nascence of the laws. Researchers reiterate that little is known about the impact(s) of cannabis policy and routinely call for increased research. If Massachusetts moves to license any form of cannabis delivery, research assessing its impact will be critical.

Cannabis Laws and Design

It is helpful to think about cannabis delivery research in the larger context of cannabis law research. The ability for researchers to isolate effects of cannabis law(s), either medical or adult-use laws, are the first priority, a task further complicated by the differences in the design of these laws across states. Research has only begun to assess differences in design of the provisions (and variations within these provisions) most commonly included in states' cannabis laws, such as permitting home cultivation or having operational dispensaries.

These limitations combined with their operational nascence provide little empirical basis to assess potential effects if Massachusetts were to implement cannabis delivery services. Given these shortcomings, it is helpful to assess outcomes from the analogous alcohol and tobacco delivery systems literature, albeit these literature bases are also limited.

The concerns in implementing a cannabis delivery provision to the regulations include: public safety and public health effects, especially with regard to youth diversion and illegal operations. From a public health perspective, preventing youth access to alcohol and tobacco have historically been complex and costly processes and, theoretically, a cannabis delivery system could increase diverted cannabis products to minors.

From a public safety perspective, preventing the operation of motorized vehicles under the influence of any psychoactive substance that impairs one's psychomotor reactions, such as alcohol impairment, has historically been an important law enforcement concern. Similarly, legalizing the adult use of cannabis in the Commonwealth brings similar concerns regarding cannabis-impaired driving. Permitting the delivery of cannabis and/or cannabis products may potentially decrease cannabis-driving impairment on public roadways.

Literature Review: Design Systems

A literature review was conducted for preliminary cannabis delivery services research, as well as research assessing either alcohol or tobacco/e-cigarette delivery systems. To our knowledge, research directly assessing cannabis delivery systems is currently nonexistent and the studies below are included based on their assessment of studying an aspect pertinent to the discussion on cannabis delivery systems. Below are the enumerated studies and relevant results from this search.

⁴⁷ Kilmer B. Recreational Cannabis — Minimizing the Health Risks from Legalization. *N Engl J Med*. 2017;376(8):705-707. doi:10.1056/NEJMp1614783 <https://www.ncbi.nlm.nih.gov/pubmed/28225673>

Cannabis

- In a study assessing marketing tactics used on marijuana dispensary websites (medicinal and adult-use) in the U.S. that could influence substance use behaviors, especially with regard to youth, including the attempt to provide easy access to marijuana products through delivery and pre-order systems, Cavazos-Reh et al. (2018) report that in one hundred dispensary websites randomly selected from 10 states that allow the legal use of medical or non-medical adult-use marijuana and had at least 10 operational dispensaries: (1) 75% did not include age verification, (2) roughly 30% offered online ordering, and (3) 21% offered delivery services. Authors conclude that these findings indicate that marijuana dispensary websites are easily accessible to youth and suggest the need for surveillance of marijuana commercialization and online advertising regarding youth accessibility.⁵⁰

Alcohol

- In a study assessing two interventions designed to reduce alcohol sales to minors: (1) training for management of retail alcohol establishments and (2) enforcement checks of alcohol establishments, Wagenaar et al. (2005) report mixed findings overall. However, enforcement checks saw an immediate 17% reduction in likelihood of sales to minors—effects which decayed entirely within 3 months in off-premise establishments and to an 8.2% reduction in on-premise establishments.⁵¹
- Dilley et al. 2017 assessed local-level marijuana regulations on retail sales within the context of a state that had legalized an adult-use marijuana market two-year post-enactment of adult-use cannabis law in Washington state and report that 30% of the state's population lived in places that had temporarily or permanently banned retail sales. These results are important in further discussion of delivery and ability to operate in municipalities with restrictions on sales.⁵²
- In a 2017 Law Review article, London R. England synthesizes the direct-to-consumer sale of alcohol to assess potential model legislation for marijuana delivery systems in emerging cannabis industries across states. In this review, London states that: “Unlike marijuana, many states have authorized delivery of alcohol directly to the consumer, subject to the same or similar rules that liquor stores must follow during in-store sales. Alcohol delivery is permitted in many forms nationwide... In spite of the questionable legality, investors and entrepreneurs are launching marijuana delivery web applications now.” London additionally states that technology often outpaces the legal system and entrepreneurs are not waiting to further the argument that municipalities should enact

⁵⁰ Cavazos-Rehg PA, Krauss MJ, Cahn E, et al. Marijuana Promotion Online: an Investigation of Dispensary Practices. *Prev Sci.* 2018;1-11. doi:10.1007/s11121-018-0889-2 <https://www.ncbi.nlm.nih.gov/pubmed/29629505>

⁵¹ Wagenaar AC, Toomey TL, Erickson DJ. Preventing youth access to alcohol: outcomes from a multi-community time-series trial*. *Addiction.* 2005;100(3):335-345. doi:10.1111/j.1360-0443.2005.00973.x <https://www.ncbi.nlm.nih.gov/pubmed/15733247>

⁵² Dilley JA, Hitchcock L, McGroder N, Greto LA, Richardson SM. Community-level policy responses to state marijuana legalization in Washington State. *Int J Drug Policy.* 2017;162(3):102-108. doi:10.1016/j.jconrel.2012.07.004. Enhanced <https://www.ncbi.nlm.nih.gov/pubmed/28365192>

cannabis delivery legislation to potentially avoid illicit cannabis sales and cannabis-impaired driving. London proposes a model for legislative change that allows for cannabis delivery and offers potential requirements for age verification, noting liability considerations in the event an entity's driver sells to a minor or an impaired person. This proposed model focuses on face-to-face sale requirements, verification of the purchaser, and liability. London proposes that cannabis businesses could build real-time, in-person identification checks to the point-of-sale application loaded onto the mobile phones of delivery drivers. Many alcohol businesses are presently using this technology in the U.S., which would assist in the fidelity of drivers verifying consumers' license age.⁵³

- Fletcher et al. 2000 describe the use of alcohol home delivery services by underage individuals as well as characteristics of grocery and liquor stores that deliver alcohol in a sample of small- and medium-sized midwestern communities. Authors report that: (1) purchases of delivered alcohol were made by 10% of 12th graders and 7.3% of 18- to 20-year-olds within the past year, and (2) purchasing was associated with: (a) being male, (b) high-risk drinking (drinking five or more drinks on an occasion), and (c) more recent and more frequent drinking. This study concludes that consumer delivery is a previously unidentified source of alcohol for underage drinkers that could be curtailed with effective alcohol policies.⁵⁴
- In a report, *The 2016 California Marijuana Initiative and Youth: Lessons from Alcohol Policy*, James F. Mosher states that protecting youth should be a critical goal for any cannabis legalization effort. In this report, he assesses five federal reports that provide best practice recommendations for reducing underage drinking and examines these in relation to preventing underage cannabis use in California's non-medical adult-use policy. Although this report assesses California's law, it is helpful to think about the prevention policy recommendations regarding Massachusetts's law, especially those recommendations that potentially would intersect with a cannabis delivery system, including:⁵⁵
 - Social Availability
 - Hold social hosts civilly liable for providing marijuana to minors in home settings
 - Commercial Availability
 - Impose strict license sanctions on retail marijuana businesses that provide marijuana to underage youth without regard to retailer intent
 - Mandate server-seller training
 - Institute commercial civil liability
 - Impose home delivery restrictions
 - Motor Vehicles
 - Adopt zero tolerance laws for youth driving

⁵³ England LR. Not to Be Blunt, but Consumers Demand Weed with Their Pizza : Model Legislation for Marijuana Courier and Home Delivery Services: Model Legislation for. 2017;20.

<https://scholar.smu.edu/cgi/viewcontent.cgi?article=1267&context=scitech>

⁵⁴ Fletcher LA, Toomey TL, Wagenaar AC, Short B, Willenbring ML. Alcohol home delivery services: a source of alcohol for underage drinkers. *J Stud Alcohol*. 2000;61(1):81-84. <http://www.ncbi.nlm.nih.gov/pubmed/10627100>

⁵⁵ Mosher J. The 2016 California Marijuana Initiative and Youth: Lessons from Alcohol Policy. *Alcohol Policy Consult*. 2016. <https://cloudfront.escholarship.org/dist/prd/content/qt7f2057rx/qt7f2057rx.pdf>

- Marketing
 - Restrict advertising on electronic media to programming with 15% or less youth audiences

Tobacco/e-cigarettes

- Williams et al., 2015, assessed age verification among internet tobacco vendors selling e-cigarettes made at the *University of North Carolina Internet Tobacco Vendors Study* project offices using credit cards. Authors report that: (1) minors successfully received deliveries of e-cigarettes from 76.5% of purchase attempts, with no attempts by delivery companies to verify their ages at delivery, (2) 95% of delivered orders were simply left at the door, (3) all delivered packages came from shipping companies that, according to company policy or federal regulation, do not ship cigarettes to consumers, (4) of the total orders: 18 failed for reasons unrelated to age verification and only 5 of the remaining 80 youth purchase attempts were rejected owing to age verification, resulting in a youth buy rate of 93.7%, and (5) none of the vendors complied with North Carolina's e-cigarette age-verification law. Authors conclude that minors are easily able to purchase e-cigarettes from the internet because of an absence of age-verification measures used by internet e-cigarette vendors. Federal law should require and enforce rigorous age verification for all e-cigarette sales as with the federal PACT (Prevent All Cigarette Trafficking) Act's requirements for age verification in Internet cigarette sales.⁵⁶

IV. Conclusion

Adult-use, direct-to-consumer delivery is a model that exists elsewhere in the nation, but there is a lack of existing research into the policy implications. As such, the Commission may wish to further study this policy area.

⁵⁶ Williams RS, Derrick J, Ribisl KM. Electronic cigarette sales to minors via the internet. *JAMA Pediatr.* 2015;169(3):e1563. doi:10.1001/jamapediatrics.2015.63 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4408777/>