

## **Coalition Study and Report: State of Emergency; Vaping Lung Disease and Fatality Epidemic Part II**

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## **Coalition Study and Report:**

*State of Emergency; Vaping Lung Disease and Fatality Epidemic*

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## Acknowledgements and Statements

The following is an analysis to give our Members a comprehensive and thorough background as to the impact that the recent outbreak of Lung Disease Deaths associated with Vaping and the implications it will have for Cannabis, the Cannabis Industry and the Cannabis Eco – System in its entirety.

The California Cannabis Coalition has fought firmly for *ten (10)* years for things such as Governmental Accountability, Efficiency and Transparency for its active participants which is why we bring this Report to the to its viewers in order to intimately understand and propose effect action and resolutions.

The fatal global public health epidemic that has erupted these past two months with no sign of slowing down, still has not been tied to one chemical agent except that a majority of all of these products used in association with the forms of lung damage cited were purchased from illicit sources, including social media, online and in person.

Unfortunately, we have estimated nearly *eighty percent (80%)* of these products to have been Illicit Cannabis vaping products with ranging cases involving Cannabinodiol (**CBD**) not just the psychoactive ingredient Tetrahydrocannabinol (**THC**) and the popular use of terpenes which are commonly used for flavoring in both.

**EVALI**, *electronic cigarette, or vaping, product use associated lung injury*, has become the direct cause of cases and as of October 30<sup>th</sup>, 2019 with Massachusetts second death related to vaping, with the third in Georgia following the same day.

As we have this has called the immediate and perhaps frantic attention of our Nation and States' leaders which even despite some of these prompt actions made, has had no impact to the situation whatsoever.

As concluded in last month's report detailing the outbreak we concluded that contrary to the typical spontaneous reaction of Local, State and National government to begin instituting bans, that it is instead now more evidential reason for the conversation of Descheduling Cannabis and creating pathways for more participation in a regulated market.

Hence, bans are bans and do *not* work starting with the Federal one which clearly has been undermined time and time again throughout the recent *eighty (80)* years.

As we have concurred in prior reports it does take a village and in the words of our Founder “the People United will Never be Divided,” therefore in stimulation of thoughts provoked by the problem be determined to find with other solutions.

We are asking all stakeholders to take this situation in high regard to creating a solution with us at the California Cannabis Coalition as we are currently in the process of doing, for a Better, Brighter and Braver Cannabis community that can and still will complete our whole Global Neighborhood and unite nations, not divide.

## **Since September:**

In the coming month of September, the first death recorded from lung injury associated with vaping struck out of Illinois, and at the time initially with *three – hundred and eighty (380)* individual cases of related injuries reported since July by the **Center for Disease Control (C.D.C)**.

As many officials and experts in medicine and health began to attribute this death to the link of long - term effects of vaping nicotine, **C.D.C** recorded the second and third deaths out of Minnesota and Indiana.

Within the month we saw an implosion of these cases slowly uptick and began evaluating where the implosion was more likely to be coming from and in our discovery found a ubiquitous trend which following these deaths led to a disturbing trail that not many may have been able to predict or even come to believe until now.

In their investigation of the death linked to vaping in Minnesota where they had narrowed down the cause of the fatality to vaping of an illicit Cannabis product found *seventy - six thousand nine hundred and seventy – two (76,972)* cartridges containing THC during their raid of the suspect whom was using the application Snapchat to solicit them.

All of the cartridges found in the raid were in packaging of a Pseudo – Brand of Illicit Market Vape Pens by the name of **DANK Vapes**.

Indiana, Minnesota as well as other Health authorities found an insurmountable amount of these products being sold by many street vendors particularly in states and municipalities where cannabis is not legal and confirmed to be used by admission of patients suffering from lung injury in disclosure to physicians.

Found in multiple states also believed to been manufactured and supplied from the Illicit market in California with have been other pseudo brands such as **Off White, Moon Rooks, Chronic Carts, Mario Carts, California Confidential, Cereal Carts, Supreme G** and counterfeits of licensed companies **Cookies, Heavy Hitters, Kingpen, TKO**.

What has become more appalling for some of us became the contents inside and what is being used as “*additives*.”

Examinations of products seized by authorities have found in these products chemicals and diluents being used as cutting agents of various forms and occurring very commonly in ratios of *seventy percent (70%)* oil and *thirty percent (30%)* additives and “cuts.”

The four of these most commonly found were chemical compounds *Tocopheryl Acetate* also known as *Vitamin E, Hydrogen Cyanide, Propylene Glycol* and in many cases no cannabis derived compounds at all in replacement of the synthetic commonly referred to as *K-2 Spice*.

The **C.D.C, F.D.A** and Health Departments across the nation have concluded this commonality in their analysis of products seized and voluntarily turned over to authorities and doctors of patients.

In lab reports conducted with **NBC** Investigative team, **Cannasafe** found these *four (4)* chemicals in *thirteen (13)* out of *fifteen (15)* products screened and more authorities across the nation are concluding the same in their findings.

Unfortunately, while all of these chemicals have been present in most of the product being tested, they have not been found in every *single* one being tested including the most common cut found to be used so far *Vitamin E*.

This has left many entities ruling out one single chemical agent as the cause, rather the mixtures and conversions of these compounds when heated and inhaled.

Due to this lack of substantial data to efficiently ... the exact cause of the outbreak outside mixtures of these chemicals within the products themselves and some of them by direct ... alone, Regardless, the White House made announcements on September 11<sup>th</sup>, that it would be looking to ban *all* Non – Tobacco Flavored products with many states quickly following suit.

While state leaders across the nation have acted quickly in hopes to address the issues, these efforts have in some cases been put to a halt by local and state courts with question to acting in such abruptness is ‘*overstepping the will of the people*’ and if these bans will sufficiently address the issue.

In the first week of the month, C.D.C announced more than *one thousand (1,000)* cases of EVALI in *forty – nine (49)* states with *eighteen (18)* deaths including California’s second fatality in Kings County.

Within *one (1)* week by Tuesday October 8<sup>th</sup>, the **C.D.C** announced the outbreak of vaping pulmonary lung illnesses imploded by another *two hundred and nineteen (219)* cases increasing the number of illnesses to *one thousand two hundred and ninety – nine (1,299)* and *twenty – six (26)* deaths.

## As the Story Unfolds:

At the start of October, the number of illnesses totaled *one thousand two hundred and ninety – nine (1,299)* with *twenty – six (26)* deaths.

In clinical test the **C.D.C** was able to evaluate *five hundred and seventy – three (573)* patients that had information on personally vaping products within the last *ninety (90)* days for which roughly *seventy – six percent (76%)* reported specific use of THC cannabis vaping products.

In addition to **C.D.C's** test, the **F.D.A** collected over *seven hundred (700)* vaping products of all forms which have either been seized by local authorities or were voluntarily turned over by patients with symptoms.

Thus far, they have analyzed and tested two hundred and *twenty – five (225)* cannabis vaping products containing THC and *seventy – nine (79)* purely nicotine vaping products and at this point have only been able to find a commonality in the use of the additive *Vitamin E* which as they have been able to observe, “is being found in a majority of the products tested however, not every single one.”

Mitch Zeller, director of **FDA's Center for Tobacco Products** has affirmed that while, “being found in close to half of the THC products, the testing process is hampered by the fact that some of the products contain no liquid to analyze or very little, putting “an extreme limit on the number and types of tests that we're able to perform.”

As of today, the **F.D.A** has still not been able to find a single chemical agent responsible for the outbreak however, have come to a strong determination that the trigger has been truly the indomitable Illicit market that has in recent years come to formidability and the use of “cutting agents,” by a numerable amount of incompliant operators.

However, again we cannot make these conclusions without acknowledging perhaps this situation is bringing into focus, the reasons we have such an illicit market in the first place.

The disaster now more notably known as *#Vapegate* is a string of multiple issues compounding into each other.

One lingering as many is yes, the Federal Prohibition and the lack of regulatory models across the nation state by state but, the second which is possibly the most important, is that a handful of people have an ill willed intention and no moral compass.

In the case of California where our highly regulated and compliance costly industry has barred most participants forcing them to the illicit market, our state has maintained this legacy or largely supplying other states in their illegal and underground markets due to not having a legal market.

This in itself is evident and has clearly become a topic of concern for other states as they see the majority of these products have been received from outside of their states coming from ours.

Due to these means for producing these illegally sourced and counterfeit products, being widely and openly available on the streets of Downtown Los Angeles even within arms - reach of Los Angeles Police Department to online platforms such as Amazon and Alibaba, it is not hard for even the traditional common folk to do.

To top that, liters of cannabis oil used in the production of manufacturing vape pens on the underground market cost as low as *six to eight dollars* a gram (**\$6 - \$8**) a gram which at even at a *four hundred percent (400%)* mark up and no compliance to pay for or taxes to collect and remit, it is overtly profitable.

In regards to the chemicals themselves and how to treat them, through their studies they have thus far been able to determine that these chemical mixtures and certain extremities in heating temperatures can cause them to change during vapor form into things like *Formaldehyde* which is deadly carcinogen as it is when burned even at a mild temperature.

The fact that these are more often than not completely transparent, odorless and opaque, therefore going unnoticed to the untrained eye, it has stricken some freight into many purchasers seeing a “darker – side” of oils which has even translated in some states to decline of sales in the sector.

## **What we Do Know:**

United States Health officials and Food and Drug Administration officials have not come any closer to getting the outbreak contained and under control which, since starting with the initial cases in July, has become the more deadly outbreak in Public Health and Safety this century.

As many health officials and medical professionals have acknowledged, all cases have not been linked to usage of products containing Cannabis or cannabinoids however, the majority of patients have disclosed either using both nicotine and cannabis in which the products they got coming from friends or those in the illicit market.

At the top of October 2<sup>nd</sup>, Mayo Clinic researchers conducted lung biopsies examinations from *seventeen (17)* patients diagnosed with having **EVALI**.

From their studies, *seventy – one percent (71%)* of the patients had regularly used vaping products containing products with all of them showing acute lung injury lipoid pneumonia, caused by a massive accumulation of “fatty substances” in lung pathways causing shortage of oxygen to the lungs and brain eventually shutting down the body.

During the researchers’ examinations two patients died.

In addition to the Mayo Clinic’s researchers’ conclusion, doctors, physicians and other experts in the medical have also concluded this to be multiple variations of rare forms of pneumonia with similar causes including the signs of “vaporized oils” within the lung repository systems.

Early symptoms have been narrowed down to excessive coughing, shortness of breath, fatigue, chest pains, nausea, vomiting and diarrhea.

In an interview on October 11<sup>th</sup> with *Science News*, the Principal Deputy Director of the **C.D.C** Anne Schuchat, stated, “we are not seeing a meaningful drop-off in new cases,” concluding that a majority of cases “still” involve vaping products containing cannabis mainly THC which are being found not to originate from a licensed or quality insured entity.

In a Congressional Hearing this October 17<sup>th</sup>, Schuchat affirmed to house lawmakers that while, “this is extremely complicated and difficult, it’s fatal or potentially fatal with half of the cases requiring intensive care.”

Nearly every patient hospitalized, have been young men, which more precisely of *the thirteen – hundred and fifty – eight (1,358)* patients recorded by the 17<sup>th</sup>, of the month at *seventy – nine percent (79%)* of them ranged in medians of the ages *twenty – three (23)* to *thirty – five (35)*.

The youngest case is a *thirteen (13)* year - old male.

She affirmed that of those, *eight hundred and forty – nine (849)* patients, *seventy – eight (78%)* disclosed use of **THC** vaping products with or without nicotine with only *ten (10%)* of the patients reported just using nicotine vaping products.

As the **C.D.C.**, has given advisory to authorities and physicians those developing symptoms of ***EVALI*** will be at a higher risk for development of severe respiratory complications or illnesses during the winter due to cold, flu and allergy season.

Schuchat expects the epidemic to continue, particularly given predictions this will be amongst the coldest winters experienced nationally and for the sake of getting to a solution, “it’s going to be a very challenging winter.”

## **Take One; From California:**

While there are *eleven (11)* States that have enacted legalization and implemented regulatory framework for the industry only, *five (5)* of those states have somewhat established supply chains leaving the other *six (6)* that do not as well as states that are not anywhere near either, having a thriving illicit market for cannabis products as well.

Of all of them California's illicit market is estimated to supply about *eighty percent (80%)* of these other states therefore their underground markets.

Given the majority of these counterfeit and fake products have been concluded as having come from California, it has called it leaders to show a rapid sense of urgency in finding the underlying roots of the problem and proactive means in order to successfully address it.

The California Legislature after ending session for the year late September, called to order a Joint Informational Hearing by the Assembly Committees on Governmental Organization, Business & Professions and Health October 16<sup>th</sup> to discuss with department leaders and experts in Health.

That morning of the hearing, a *seventeen (17)* year old minor from New York became the *thirty first (31<sup>st</sup>)* death, with that number going over the next day that Thursday to *thirty (33)* deaths and *fourteen hundred and seventy – nine (1,479)* patients with symptoms or full - blown cases.

The *four (4)* hour hearing, chaired by *Assembly Members Adam Gray, Evan Low and Jim*, listened to testimony from three panels to dive into the elements of the problem and some of the solutions to it that can be enacted upon once the Legislature reconvenes in January in order to be prompt and proactive in addressing the outbreak.

The panels composed of Dr Elisa Tong, the *Associate Professor of Internal Medicine from UC Davis*, Nicolas Maduros, the *Director of California Department of Tax and Fee Administration*, Lori Ajax Chief of the *Bureau of Cannabis Control* and the *Assistant Director of the Department of Public Health*, Dr. Charity Dean, was to not only discuss the cause of the outbreak but, a collective approach moving forward

Dr. Clarity Dean, Dr. Charity Dean, *Assistant Director & Acting State Public Health Officer of D.P.H.S.*, gave what become the most insightful breakdown to the “suddenness” behind this outbreak and evidence on the situation to draw critical conclusions for the legislature in identifying the causes of what the CDPH is calling *Vaping Pulmonary Lung Injury (V.P.L.I)*.

In data from private interviews held with *seventy – eight (78)* patients suffering from V.P.L.I finding that of those patients, *seventy – two percent (72%)* of patients disclosed vaping products containing *Tetrahydrocannabinol (THC)*, *thirty – eight percent (38%)* containing *Cannabidiol (CBD)* and merely *ten percent (10%)* which reported using only *strictly* Nicotine vaporizer products.

Of the *seventy – eight (78)*, *one (1)* patient interviewed said his **V.P.L.I** was triggered after usage of a licensed cannabis vape pen product purchased at a licensed Retailer.

October 1<sup>st</sup>, 2019

The C.D.P.H's epidemiology from the study, Dr. Dean disclosed that in test voluntarily remitted to the C.D.P.H by the patients interviewed they did find *Vitamin E acetate* however, was not traced in all products meaning there is still no conclusion of the "primary culprit(s)" behind the VPLI and the deaths from it.

Members of the Dias commonly agreed and noted, that vaporization of any product, may be more recent in methodology, is not at *all* new and agreed this is a direct relation to the illicit market amongst the problems for which have erected it in such a massive proportion.

Assemblyman Gray in a question to the Dr. specifically around how "odd" it is fact that there are only a handful of cases in Canada with not a single one recorded in the United Kingdom, Asia or Europe.

Dr. Dean's remarked "it is interesting, however not odd."

In those close of the hearing Assemblyman Wood Gray doubled down following with a question, one similar Assemblyman Gray's as to "how surprising it is that this all of a sudden is happening."

Her answer was the shortest and most direct single answer, heard throughout the hearing giving the members some answers in itself; "yes."

Assemblymember Jim Wood in interviews with POLITICO Friday night declared he and colleagues will seek to address this issue as quickly as possible which will result in them crafting a Bill to end the sales of all flavored nicotine and cannabis vaping products.

The approach would be to go take a thorough and "*targeted approach*" which would only be directed at flavored products which by Federal Authorities, the CDC and FDA are enticing and misleading to minors.

While torn on the issue, the Assemblymember is concerned in new users of nicotine vaping products as well as cannabis vaping products which are becoming very accessible to these under – age teens particularly in the instance of our "booming" illicit market; something which the unintended consequences of an absolute ban would mean more of the same.

The Assemblymember Wood addressed towards the sentiment has affirmed "if a total vaping ban becomes "*the will of the Legislature* we need to find a way to do it that doesn't create other problems," as these have been proposals of the very recent past in the legislature (health) and while they were strictly Nicotine related will now be sure to be inclusive of flavored cannabis vaping products.

## **States that Experienced Fatalities:**

The ages of those who died range from *seventeen (17)* years to *seventy (75)* years, with a median of *thirty – five (35)* to *forty – nine (49)*.

1. *Alabama (1)*
2. *California (3)*
3. *Colorado (1)*
4. *Connecticut (1)*
5. *Delaware (1)*
6. *Florida (1)*
7. *Georgia (3)*
8. *Hawaii (1)*
9. *Illinois (2)*
10. *Indiana (3)*
11. *Kansas (2)*
12. *Massachusetts (2)*
13. *Michigan (1)*
14. *Mississippi (1)*
15. *Missouri (1)*
16. *Minnesota (3)*
17. *Montana (1)*
18. *Nebraska (1)*
19. *New Jersey (1)*
20. *New York (1)*
21. *Oregon (2)*
22. *Pennsylvania (1)*
23. *Tennessee (1)*
24. *Texas (1)*
25. *Utah (1)*
26. *Virginia (1)*
27. *Washington D.C (1)*

## **State by State Actions:**

Since the September 11<sup>th</sup> announcement from Washington D.C and more fatalities and illnesses being recorded, States have acted quickly most of whom have instated temporary bans on the sales or vaping products.

Although some of these bans have been strictly towards the electronic cigarette industry, these are also states' that have not legalized or even some extents regulated Cannabis industry however, has not been ruled out to be a concern for them.

With that being stated we can strongly declare, that bans are bans and if these have become the means of resort for these States in regard to Tobacco, one can only presume it would be presumptuously similar for the case of cannabis products.

Here is a list of States that have begun to or already moved to ban Vaping products, nicotine, cannabis or both:

### *California*

Pending actions from the California Legislature include drafting of legislation that would ban all *flavored* nicotine and cannabis vaping products.

### *Delaware*

Democratic state lawmakers with indicated support from their Governor's office have stated they are in the process of drafting legislation to ban all *flavored* nicotine products and restrict advertising.

### *Illinois*

House Bill 3887 the Flavored Tobacco Ban Act, filed by State Representative Grant Wehrli (R) September 13<sup>th</sup>, if passed in the 2020 Legislative session would prohibit both the sale of flavored electronic cigarettes *and* flavored tobacco.

### *Iowa*

Governor Kim Reynolds and the parliament of Iowa have decided to take an educational approach as oppose to the prohibitionist one.

Their outreach to users of vaping products on the potential health risks associated has been seen as somewhat successful in their estimates noting that of their forty – three (**43**) patients with EVALI, thirty - four (**34**) of them purported use of cannabis vape products purchased from illicit sources.

### *Massachusetts*

Perhaps the strictest ban thus far, was an executive action by the Governor Charlie Baker, prohibiting not only nicotine and cannabis vaping products but, the devices in which are used for heating and inhalation for four (4) months until the 25<sup>th</sup> of January next year.

Much like some other states, the ban was widely contested in court by owners of stores and wholesalers of these products but, the ruling was upheld by a Federal Judge.

### *Michigan*

Despite becoming the first state to move towards creation of a *five (5)* month ban on flavored electronic cigarette flavor “cuts” like mint and menthol, on October 15<sup>th</sup> just *thirteen (13)* days after going into effect, the ban was blocked by the Michigan Supreme Court.

### *Montana*

Through executive order of the Governor sign on October 8<sup>th</sup>, the state of Montana looked to issue a temporary, ban on all flavored vaping products which was set to begin October 22<sup>nd</sup>, was issued a temporary restraining order by a District Judge on October 18<sup>th</sup>, after lawsuits from several vape stores owners were filed in local superior courts.

### *New Jersey*

Democratic leaders have introduced state measures for circulation through their committee process once the legislature resumes next year. Assuming the measures pass through the legislative committee process and are signed by the New Jersey Governor, would ban the sale of flavored electronic cigarettes effective immediately.

### *New York*

September 17<sup>th</sup>, Governor Cuomo signed off on a *three (3)* month emergency statewide ban on nearly all flavored nicotine electronic cigarette vaping products which before state health authorities could begin enforcement of these new regulations was issued a temporary stay State appellate.

The challenge was filed and petitioned by representatives of the vaping industry.

### *Oregon*

By direction of the governor, Oregon Health Authority and the Oregon Liquor Board implemented a *one hundred and eighty (180)* ban on all sales of flavored vaping products and additives as the State drafts a “long – term solution.”

Nicotine vaping industry proponents and their legal counsel challenged the action and have been successful seeking state judges in halting it although, Cannabis vaping products will still remain prohibited.

### *Rhode Island*

Effective as October 4<sup>th</sup>, a statewide executive order to ban the sales of all flavored vaping products for *four* (**4**) months.

*Utah*

While not imposing a ban, Utah state officials have restricted sales of all vaping products to only state licensed tobacco stores beginning October 2<sup>nd</sup>.

Despite the sale of usage of cannabis remaining illegal under state law, health authorities are also requiring these licensed tobacco storefronts to post signage warning of the dangers associated with buying and vaping illicit cannabis products.

*Washington*

A permanent ban on all flavored vape pens, imposed October 9<sup>th</sup>, which is currently being contested by one of the state's leading Trade Associations of vape industry stakeholders.

## **California Municipalities with Bans against Vaping:**

### *Counties:*

1. *Contra Costa County*
2. *Los Angeles County*
3. *Marin County*
4. *Mono County*
5. *San Mateo County*
6. *Santa Clara County*
7. *Santa Cruz County*
8. *Yolo County*

### *Cities:*

1. *Alameda*
2. *Albany*
3. *Berkeley*
4. *Beverly Hills*
5. *Cloverdale*
6. *Corte Madera*
7. *El Cerrito*
8. *Fairfax*
9. *Half Moon Bay*
10. *Hayward*
11. *Hermosa Beach*
12. *Lafayette*
13. *Larkspur*
14. *Livermore*
15. *Los Gatos*
16. *Manhattan Beach*
17. *Novato*
18. *Oakland*
19. *Palo Alto*
20. *Portola Valley*
21. *Richmond*
22. *Sacramento*
23. *San Anselmo*
24. *San Carlos*
25. *San Francisco*
26. *San Leandro*
27. *San Pablo*
28. *San Rafael*
29. *Santa Cruz*
30. *Saratoga*

31. *Sausalito*
32. *Sonoma*
33. *West Hollywood*
34. *Windsor*

## **Drawing the Clear Line:**

Towards the end of the month in another testimony hearing held by the **House Appropriations Labor, Health and Human Services, Education, and Related Agencies Subcommittee**, while there were members of congress in strong belief the outbreak “demonstrates that states prematurely implemented legal marijuana markets, putting consumers and young people in particular at risk.”

Principal Deputy Director Anne Schuchat of the **C.D.C** in her testimony affirmed the majority of cases of **E.V.A.L.I** associated with vaping products containing Cannabis, primarily THC, have been repeatedly tied back to the illicit market, and not state regulated producers or storefronts.

In her words, “the lung injury outbreak, while the vast majority report using THC containing prefilled cartridges, they report getting them from informal sources or off the street, not necessarily from licensed dispensaries.”

She did hint at the fact that due to certain states grounds for regulation of the industry or better yet, the ones that have none at all, it does bring into question two very key subjects.

One is the model for legalization that some states have used working considering their overall levels of activity in their underground markets to that of the legal one and the second being is this another failure in part due to federal prohibition and other states not moving to regulate at all.

In her closing statements, Ms. Schuchat stated “one thing I would say is there’s a lot of debate out there about whether legal status makes things better or worse in the states because some of our concerns right now are about the counterfeit and black market—whether the substances that are in products that are completely unregulated by the states are riskier than the products that are regulated by the states.”

Former **Food and Drug Administration** Commissioner Scott Gottlieb believes the regulatory hurdles associated with the ‘state-by-state’ approach and in essence has left enforcement agencies inadequately equipped to handle this situation.

He said if the Federal Government were to be more proactive in the activity of states that have created framework to regulate and tax cannabis on a commercial basis as it will bring more oversight and uniformity.

Regardless the case, it is clear this is not a problem created from licensed producers.

In regards to CBD and illegal THC products, the trending use of adding thickening chemicals and other harmful agents to the distillate and isolate.

The third is that this is a byproduct of not having uniform policies that allow access to affordable product and enough participants to produce, wholesale and provide to end users.

## **A Pragmatic Approach; Looking to the Science:**

One thing is certain, at this point, the cases have been isolated to the United States solely, with only a handful of cases in Canada, there are no reported illnesses nor deaths in the United Kingdom, the European Union, Asia or any other region.

In an interview with Vice for their article entitled *Why People Are Dying from Vaping in the U.S. and Not the U.K.*, Brad Rodu a **University of Louisville** medicine professor and expert in tobacco – addiction and harm reduction he cited some major reasons why this is.

The fundamental one is the lack of scientific facts and data that can be obtained in trials on products such as these because the money appropriated towards it for these specific cases and studies is usually bottlenecked due to lack of experts in those fields or simply a struggle to apply for and obtain.

Another reason in his own words is, " due to the American propensity to turn health issues into moral crusades, it appears that policymakers in the U.S. are either completely ignorant of the history of tobacco, or completely ignore it."

This is far from unreal as the swift reaction to the epidemic has been what historically law makers in the country resort to first rather than last being the prohibitionist direction.

Instead of looking to the science and evaluating the situation from a data and research driven understanding, the mentality historically is the repetitive ladder of creating complete bans that in turn have no basis of factual underlying which can promote success but, the absence of this research and scientific base which in turns cannot effectively educate people in a means of prevention.

In regions not affected by this outbreak, we can clearly see why.

Going back to 2016 where the United Kingdom began to follow the European Union's *Tobacco Products Directive*, and established barriers on means of advertising conducted including misleading messaging or graphics to minors and possibly more importantly, regulations on the amounts of nicotine and additives in milligram and milliliter levels of liquid nicotine products.

Nicotine specifically is capped at *twenty (20)* milligrams, which traditionally in comparison JUUL products average as high as *fifty – nine (59)* milligrams.

The director of **DrugWise**, the United Kingdom's educational prevention program for drugs, Harry Shapiro believes that, "it's basically reefer madness revisited in the U.S."

The **DrugWise** program authored a report entitled the *Global State of Tobacco Harm Reduction* in which they laid out their plan to reduce usage through methods of education to regulation, including solutions towards the goal for England to be smoke free by 2030 with vaping to help achieve that.

In the observation of Shapiro, "in the United States, you can go around firing guns, but they don't want you to vape. Which is to say, certainly, that there's a real disconnect between what counts as public safety and what people are actually, or should be, scared of."



October 1<sup>st</sup>, 2019

Acknowledgment of this came from Michael Siegel, a professor of community health sciences at **Boston University** who strictly believes, “carefully and thoughtfully regulating products, rather than banning them, you can maximize the public-health utility of electronic cigarettes as harm-reduction tools, while at the same time minimizing the risks to youth.”

"We have failed to do that here because our approach has been more of a prohibition-like mentality. This is what happens when you shun the idea of harm reduction."

## **Impacts to the Market:**

*#Vapegate*, while being attributed to the use of additives and chemical mixtures within these products, has had an abnormal impact across the board to companies on the legal market state to state.

In first week of September collected into September 18<sup>th</sup>, data and market research company New Frontier estimated a *fifteen percent (15%)* decline in the Cannabis Vaping product sector nationwide.

According to their statistics there was about a *one – third (1/3rd)* average lose for the sector in states such as Massachusetts, Montana New Mexico, Nevada have of one-third or more, with the state of California seeing a *six percent (6%)* statewide drop off.

States such as Oregon that had a fatality in connection to purchase of cannabis vaping product from a state licensed operator has seen a record high *sixty – two percent (62%)* loss and with the complete ban upheld by the court for strictly cannabis vape products we will surely see it completely *zero (0)*.

Looking more closely at states like California, loses in market share or revenue has been largely due to the numerous amounts of Ordinances on the County and City level for example Los Angeles' City where they are motioning to ban all vaping products for full *three hundred and sixty – five (365)* days.

According to Seattle – based market research company, Headset, they found very similar analytics behind their results and going back to August 19<sup>th</sup> and after recording numbers, from then to the 16<sup>th</sup> of September, saw a *five point seven (5.7%)* hit to the sector *thirty point five to twenty – four point three (30.5% to 24.3%)*.

By the second to the last week of October data demonstrated that market share in the state increased to *twenty five point two percent (25.2%)* by point *nine percent (.9%)*.

While this sector has seen a down turn others have begun to see a significant increase, particularly dried flower sales and in states where they are allowed to be produced, sold or not as highly regulated, edibles.

Colorado has seen a decline dating back to the last days of August, by about *seven percent (7)* from the week of August 23<sup>rd</sup> to the week of September 23<sup>rd</sup>; a *thirty – two percent (32%)* drop.

In contrast to the vaping sector, dried flower which through the first six months of the year was *sixty – one percent (61%)* and since September rose to *seventy – five percent (75%)* of the market.

One interesting trend on the East Coast has been retailers in Maine reporting higher sales in the vape cartridge sector due to Massachusetts ban, which as of the second death Tuesday October 29<sup>th</sup>, has been extended.

**Connection of Maine's** Chief Executive Officer, Patricia Rosi that visits and sales have tripled and with the trip ranging from at least two and half to three hours from the greater Massachusetts

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area, are buying multiple brands and different selections of them attributing to more sales on individual vape products.

She has affirmed that this has been an immediate result of their state neighbor's ban and are "ready to meet the demand."

## **The Deep Dive; Bans or Regulation:**

If it were something to be considered “common sense” perhaps we again would not be finding our nations leaders (collectively) looking towards the same resolution which has been the primary factor in the birthing of this threat to public health and safety; bans do not and have never historically been a success.

In fact, every single ban on a commodity or something which has a large demand where regardless of the source the supply will be made to meet it.

Going back to the early 1900’s and days of alcohol prohibition which saw an end, to the 1700’s when indentured servitude became outlawed by the colonies, leading to the “boom” and inhumane bloodthirst to have slaves and free labor.

This country banned tea at one point to avoid taxation as it had taken this country to do, again historically speaking we are repeating the cycle and going to now especially when these bans are overlapping complete Federal Prohibition of cannabis.

Making something illegal has no guarantees for the outcomes sought or predicted and more often than not have their great deal of unintended consequences and in this case it just means proliferating the problem and possibly a more booming illicit market which, without many changes even in state with Regulatory framework for Cannabis is forecasted to become more and more formidable.

This only means for states and the national government looking to deschedule, regulate and tax cannabis.

In recent Gallup Polls, despite the epidemic, support for legalization is still at an all - time high, probably in large part to the general population being formally aware that these products linked to the regulated sources.

This is not the time for us to collectively back track, this is ever more reason to press the issue; bans do *not* work and the first one is compounding factor per usual except this time in the face of a Nationally breakdown in Public Health and Safety.

When England in their era attempted to regulate and tax *tulips*, it was the first time in recorded history a commodity like plants particularly ones that grow freely in nature, had a price tag attached in which unlawful cultivation and bartering of it was punishable by death; needless to complete the history lesson but, it was complete failure.

We at the Coalition have studied multiple bans and prohibitions that have occurred not just domestically but, globally and seemingly every time the goals were only achieved when regulating and educating the public.

It is unlawful and of course unmoral to kill; people still do it.



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A ban won't stop someone from capitalizing when it has only one point of being obtained which in this case just empowers the underground market.

## **For Patients & Patrons:**

We cannot stress the importance of your safety and how important we take informing you.

The California Cannabis Coalition is working diligently with its stakeholders to provide as much public and social forum in order to provide you directly with tools with the companies themselves to not only guide you in a direction of safety but, truly build the accountability and trust that we have failed in manifesting.

With that being said, many are seeing the call to action we must raise to do this for and by you more over to be a better, brighter and braver industry and community for you.

Just recently the **Leafly** team conducted some “secret shopping” to see exactly what is going on with unlicensed storefronts and how *#vapegate* has impacted them.

As it would assumable to most, there is not only a flood of counterfeit and fake cartridges but, in many ways a “bottle – neck” in their segment of the underground market.

Not only were they selling at discounted prices even as low as buy get one free as we found in our “**C.C.C Consumer Watch Task Force**,” we found that these products at the naked eye were clearly cut and contained high amount of lucid additives.

In their independent test conducted on *ten (10)* vaping pens had levels that exceeded as high as five thousand times the legal limit, of pesticides and other foreign contaminants.

Approximately *thirty – five percent (35%)* of the actual contents in the pens they tested were found to be *Vitamin E*.

They found as we were able to that **West Coast Cure** specifically, their *Lucky Charms* product, was amongst them widely available which has been directly tied to the death of multiple individuals in California and other States.

We found pseudo – brands like **DANK Vapes**, **Cereal Carts** and **Mario Carts** were still carried on shelves in large proportions however, may be attributed to the slow - down in purchases on illicit vape pens across the board.

Counterfeit brands seem to be slowing down in sales as well considering a majoring of underground stores we went into had a backlog of products like **Stiiizy**, **Cookies**, which had very different packaging from the licensed product, and **Brass Knuckles**.

As we covered last month, this is not just the case for cannabis product containing THC, this has included CBD products including some specific products “brands.”

We dived into a specific case we detailed involving a brand by the name of **YOLO** which in an **NBC** investigation was tied to coma induced state of man in Utah and traced to cases in North Carolina and other states in the mid – east.

To date over fifty citizens in the Salt Lake City area were stricken ill and admitted to the hospital after receiving “jolts of synthetic cannabis” which caused severe hallucinations and more than a dozen seizures.

All of them had experienced this immediately after use of this product.

In the Associated Presses investigation, they were led to Southern California in the direction of a person by the name of Janell Thompson, a formal resident of Utah turned San Diegoan in 2010.

Her roommate turned business partner and her incorporated **Hookahzz**, and became a widely known success even having their highly acclaimed product in Oscar Nominee Gift Bags in the year of 2014, even being the first company to ship CBD in general.

It wasn't until 2017 that it seemed the company after creating their subsidiary **Mathco Health Corporation**, that Utah became home to **YOLO** which soon enough was sickening individuals in the state and has been link to *eleven (11)* people in Europe.

In the Summer of 2018 was when a former book keeper for the Mathco company Tatianna Gustafson, was filing a workplace related complaint with the **California Department of Industrial Relations** found **YOLO** was nowhere to be found in their promotional content, no contact list or ingredient listings and as other employees confirmed the company's profit margins were tremendously higher than usual for other products.

Thompson has been found as the signer or initialed as the main salesperson for the products transactions and shipment mainly a company in Utah and six other states.

Including North Carolina, a South Carolina college teen confirmed use of the pen after being induced into a coma.

Unfortunately, as spokeswoman Mary Brandenberger for the **Drug Enforcement Administration (D.E.A.)** has stated, “spiked CBD is a low priority for an agency dealing with bigger problems such as the opioid epidemic, which has killed tens of thousands of people.”

In local investigations without assistant of **D.E.A.**, investigators through omission of the distributors connected Thompson to an outbreak from products under the name of Black Magic and Black Diamond, which sickened over *forty (40)* individuals in North Carolina, from teens in high school to seniors as far back as 2014.

As of recent there has been a thorough federal investigation conducted interviews with the former partner of Ms. Thompson, Katarina Maloney whom which since has distanced herself from Thompson.

In her words, "to tell you the truth, that was my business partner," following an affirmation that Thompson was no longer her partner but, did not disclose why.

As of yet No charges have been formally filed.

These are just microscopic and detailed looks into the reasons we urge purchasers and patients of products to be wary of just taking or buying anything even if it's the more affordable or cheap option.

This is your health and we are very aware of the cost prohibitive nature of markets like ours in California and for markets with no Regulation the need to get it from somewhere but, unfortunately we have been infiltrated by those with ill will and not every source can be trusted right now.

For reference and immediate insights we have provided below a listing of useful tips and ways to know if you have or someone you know is experiencing onsets of **E.V.A.L.I** or can advise and educate them of the products to avoid including ways to avoid them and insure what you are putting in your body is not fatal to your health.

### *Symptoms to look for*

#### **Symptoms:**

- *Shortness of breath*
- *Cough*
- *Chest pain*
- *Nausea*
- *Diarrhea or vomiting*
- *Unexplained weight loss*
- *Fatigue*
- *Abdominal pain*
- *Fever*

### *Unsafe Products to Avoid (Get #weedwise)*

#### **Fake Brands:**

- Cereal Carts
- Chronic Carts
- Chronopoly
- Dabwoods
- Dank Vapes
- Exotic Carts
- Gas Tanks
- Krush
- Mario Carts
- Pure One
- Smart Carts
- West Coast Cure

#### **Counterfeits:**

- Alpine
- Brass Knuckles
- Cookies

- Heavy Hitters
- Kingpen
- Rove
- Stiiizy
- TKO

*Useful Tips to Confirm a Compliant Brand (CApotcheck.com to know #isyourgreenclean?)*

**Details to Look for:**

- Product is sealed within a child – proof and tamper resistant package
- Manufactured Date
- Expiration Date
- Packaging Date
- Batch Number
- Serving Size
- Total Net Weight
- Skew Number, QR Scan or Bar Code
- Licensee Number
- Directions for Usage
- List of Ingredients
- Website & Social Media
- Proposition 65 WARNING Label
- Universal “CA!” Symbol on Packaging and the product itself within the container

## **Moving Forward Implementing Model Solutions:**

As of October 31<sup>st</sup>, the deaths across the nation have totaled to *thirty - nine (39)* with *eight hundred and eighty – eight (1,888)* illnesses overall with the both fatalities and cases of EVALI doubling since the end of September.

Thus far C.D.C has concurrently found over half of these deaths to be linked to illicit THC vape

To date California has been the number one supplier of cannabis in the U.S since the early 1980s and is not going to change anytime soon without looking deeper into the problem of this vaping situation.

While the problem, is clearly the domination of the illicit market and the lack of education to customers and patients, with excessive taxes and local bans of regulated industry thus hindering access in roughly seventy percent of the state, this is hardly just about enforcement and burning more tax dollars for it; something that most voters approving of legalization though they were voting for.

The problem are the unintended consequences in its totality is not just the illicit market but, it is the Model that has manufactured this problem.

During the public comment period of the Joint Informational Hearing on the 16<sup>th</sup> of this month, one speaker disclosed being an “illicit operator.”

“I work, I have a family, I am really trying to figure it out and get a license but, its hard.” In closing he remarked, “I’ve been pulled so many directions and nothings really worked out and when you have *the powers that be* just saying to enforce on *them*, instead of helping us it doesn’t make it easier.”

His statement was every reason we are working towards amending the ***Control, Regulate and Tax Adult Use of Cannabis Act (Proposition 64)*** because it is not working in anyone’s true benefit and it does represent the opportunities for business owners reflected in every other sector or a reflection of California as forward thinking and progressive leader in the nation.

We got it wrong and this epidemic has proved it; now time to fix it because we all have the same objectives in this and it’s the ways in which we go about them that can make a better outcome if we do it together.

Solutions the California Cannabis Coalition has long advocated for include;

- *Direct and Hands on Education to consumers (Including the difference between product that is legal or illegal not just the retailers and emphasis of supporting the regulated market)*
- *Elimination of Local Control*
- *Allocation of more funding & resources for the Departments*
- *The Taxes (Including elimination of the Mark Up Tax by CDTF)*
- *De – regulation, De – scheduling & Re – scheduling (Nationally & Statewide)*
- *Adequate, Reason for Regulation & Execution (A.R.R.E) Regulatory standards for vaping product*



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- *Additional Testing requirements and criteria for these foreign elements being found in products related to the outbreak (with direct intel of the **Department of Public Health**)*
- *Restoration of Credibility in Departmental Oversight & Industry*

In hindsight, we are working this November and December to coordinate a means to tactically solve these problems collectively and from multiple angles in a proactive approach just as the legislature has begun to look towards as well.

The first issue overall we have begun to address is the use of Additives, Chemical Mixtures and restrictions to botanically derived and naturally concentrated and used for flavoring; this is to immediately address this specific issue to engage the others all together after.

All in all something *has* to happen, whether its banning synthetic or harmful additives like Vitamin E or capping milligram levels, its going to happen; the difference will be us making it in our consumers, patients, the industry and overall safety of the public's best interest.

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