

# State Regulation and Control of Psychoactive Substances

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## *The Vision*

The King County Bar Association supports a public health approach to the chronic societal problem of substance abuse, stressing the need to shift resources into research, education, prevention and treatment as an alternative to the continued use of criminal sanctions, to achieve the objectives of:

- reducing crime and public disorder;
- improving public health;
- protecting children better; and
- using scarce public resources more wisely.

By any measure, current drug control policies have failed to achieve those objectives.

As a result of years of intensive study, the King County Bar Association recommends the establishment of a state-level system of regulatory control over those psychoactive substances that are currently produced and distributed exclusively in illegal markets. The main purposes of this state-level regulatory system are:

- to render the illegal markets for psychoactive substances unprofitable, thereby eliminating the incentives for criminal enterprises to engage in the violent, illegal drug trade;
- to reduce access by young persons to psychoactive drugs and to provide them better education and prevention services; and
- to open new gateways to treatment, finding the hard-to-reach population of addicted persons who consume the bulk volume of drugs, drying up black market demand for those drugs and thereby reducing public disorder, economic crimes related to addiction, transmission of disease, accidental death, quantities of drugs consumed, initiation of use by young persons and drug addiction itself, as well as criminal justice, public health and social welfare costs.

The King County Bar Association and its coalition partners are not currently proposing specific legislation and do not presume to set forth every detail of a state-level regulatory system for controlling psychoactive substances. Rather, **the coalition is calling on the Washington State Legislature to authorize a special consultative body of experts in pharmacology, medicine, public health, education, law and law enforcement, as well as public officials and civic leaders, to provide specific recommendations for legislative action to establish such a state-level system of regulatory control.**

The politically-charged term “legalization” is insufficient to describe how the state might control those psychoactive substances that are now exclusively produced and distributed through illegal markets. The concept of **strict regulation and control** of psychoactive drugs is a more accurate and useful description of this proposal and must be carefully distinguished from the idea of *commercialization* of such drugs.

The King County Bar Association’s vision for a system of effective drug control contemplates differing degrees of control for each substance, depending on the known potential for harm. It is likely that only registered addicts would have access to the more addictive drugs such as heroin, and only through state-licensed or state-controlled medical treatment facilities as part of addiction treatment regimes aimed at reducing the quantity of use and eventually the elimination of use – an approach now proven effective in Europe.

The vast bulk of “hard” drugs are consumed by a relatively small number of addicted users. Certifying and registering as many of those users as possible and bringing them into state-controlled medical treatment facilities would, therefore, dry up the black market in each local area. Other potential users who might want to experiment with such substances would have to obtain them from the “gray” market, which currently exists for other pharmaceuticals and is easier to control (although a growing problem in the U.S.)

Cannabis might be regulated in the same manner as distilled spirits, with controlled availability from licensed producers to adults through facilities operated by the state and a prohibition on advertising. Separate, state-regulated medical cooperatives would provide cannabis to patients at low cost. As an alternative, a state-supervised system of home production (not dissimilar to home brewing) and non-commercial exchanges might satisfy the demand for cannabis, thereby reducing the potential harm from excessive availability and making state-controlled outlets unnecessary.

Young persons would continue to be prohibited from possessing or using psychoactive substances because their relatively limited ability to make informed judgments renders them especially vulnerable to the adverse effects of drug use and preventing or delaying such use would allow for the development of social competence and resilience to risk. State sanctions for drug use by young people would not be criminal, however, but rehabilitative and restorative and based in the community and the family.

Pricing structures for state-controlled substances could easily undercut black market prices and in many cases the substances would be provided free of charge or at very low cost (along a sliding scale) to registered addicts at the state-controlled medical treatment facilities. Any revenue to the state would support the administration of the regulatory framework and would maximize funding for prevention, treatment, research and education, while maintaining price levels low enough to render any illegal markets unprofitable but high enough to deter consumption, especially by young persons.

Most psychoactive substances currently produced and distributed exclusively in illegal markets would become *less* available than they are today and certainly less available than alcohol, especially to young persons. Cannabis might become more available to adults, but compelling research from many countries indicates that cannabis availability brings about a “substitution effect,” which dampens the use of alcohol and tobacco, as well as of other, more dangerous drugs.

Where pure and safe forms of “hard” drugs would be available to addicts through prescribed maintenance regimes aimed at reducing harm, drug use and drug addiction, the medical nature of this approach would likely discourage many new users of such drugs when they are perceived as medicine for sick people more than as a way to have fun.

The prescription drug maintenance programs in Europe and Canada should serve as a guide, where hard-core drug addicts are brought indoors into medically-supervised facilities and stabilized with controlled doses that are free of charge. These programs have brought about very promising outcomes:

- reductions in overdose deaths;
- reductions in the transmission of disease;
- reductions in economic crimes related to addiction;
- reductions in levels of public disorder;
- reductions in the quantity of drugs used;
- elimination of drug habits altogether for 20% of participants;
- stabilization of the health of participants;
- increased employment rates of participants;
- law enforcement support; and
- a changed culture where addictive drugs like heroin lose their cachet and are considered more like medication for sick people, resulting in declining rates of first-time use of such drugs.

Without such programs in the United States, this hard-to-reach addict population now continues to stimulate the illegal market, to contribute to public disorder, to spread disease and to suffer overdoses without any reduction in drug use and certainly no abstinence. These are just some of the devastating effects of the current approach of drug prohibition and criminalization, which is draining state and local coffers through ever-rising criminal justice costs.

The King County Bar Association proposal would not only pay for itself, but would provide the state with additional funds for effective education about the dangers of psychoactive drugs and for medical treatment for those harmed by drug use. Recent research in Washington State has shown how generous investments in prevention and treatment yield significant savings from avoided costs in medical care, social welfare and criminal justice. The current proposal would allow for enhanced prevention and treatment to be financed from massive savings that would arise from reduced use of the criminal justice system.