



CHEMICAL OF THE MONTH: Marijuana Smoke

CHEMICAL OF THE MONTH, CHEMICALS OF INTEREST, OEHHA

By LUCAS WILLIAMS, September 8, 2020

On June 19, 2009, **OEHHA listed "cannabis (marijuana) smoke"**¹⁾ as known to cause cancer [see **Marijuana Smoke Listed As Carcinogen**²⁾, June 23, 2009]. In listing marijuana smoke as a carcinogen, OEHHA's August 2009 Report on **Evidence on the Carcinogenicity of Marijuana Smoke**³⁾ compared it to tobacco: "Marijuana smoke and tobacco smoke share many characteristics with regard to chemical composition and toxicological properties. At least 33 individual constituents present in both marijuana smoke and tobacco smoke are already listed as carcinogens under Proposition 65." OEHHA's finding that marijuana smoke causes cancer was based on both human and animal studies.

On January 3, 2020, **OEHHA listed marijuana smoke**⁴⁾ as known to cause developmental harm to the fetus after the Developmental and Reproductive Toxicant Identification Committee (DARTIC) voted to list cannabis smoke and delta-9-tetrahydrocannabinol (THC) as reproductive toxicants under Proposition 65 [see **State Lists Cannabis Smoke and THC under Prop. 65**⁵⁾, February 4, 2020].

OEHHA and DARTIC reviewed numerous human and animal studies in making their determination that marijuana smoke causes reproductive harm. OEHHA has not set safe harbor levels for marijuana smoke for either its carcinogenic or reproductive effects.

Between December 2014 and the August 2020, there have been 134 notices issued regarding marijuana smoke. Most of these notices have been issued by two private enforcers: Michael DiPirro represented by Jennifer Henry and the Center for Advanced Public Awareness, Inc. (CAPA) represented by Aqua Terra Aeris Law Group.

Between December 2014 and August 2019, DiPirro sent 45 **notices to dispensaries**⁶⁾ and other companies selling marijuana products and marijuana paraphernalia used for smoking marijuana which allegedly were sold to consumers without clear and reasonable warnings. DiPirro has reached approximately 22 settlements (almost all of them out-of-court) with noticed parties. The settlements require the noticed parties to provide clear and reasonable warnings with their products going forward, in addition to paying civil penalties and attorney fees. An example of a settlement is **Michael DiPirro v. Downtown Patient Group**⁷⁾.

Between January 2017 and August 2018, CAPA served 33 **notices on companies**⁸⁾ selling "marijuana flowers, buds and pre-rolled products" and other similar marijuana products. CAPA's notices allege the products were sold without warnings. Most of CAPA's notices have resulted in settlements, which require the noticed entities to provide clear and reasonable warnings with their products and pay civil penalties and attorney fees. An example of a settlement is **CAPA v. Cannabis**

Buyers Club of Berkeley⁹⁾ .

More recently, Environmental Health Advocates (EHA) has been issuing **notices on companies¹⁰⁾** selling paraphernalia used to smoke marijuana. EHA is represented by various lawyers including Jake Schulte and Noam Glick. EHA has served 14 **notices to date¹¹⁾** and reached one settlement, **Environmental Health Advocates v. Gravitron, LLC¹²⁾** .

Resources for this article

1. OEHHA listed "cannabis (marijuana) smoke"

<https://oehha.ca.gov/proposition-65/chemicals/cannabis-marijuana-smoke>

2. Marijuana Smoke Listed As Carcinogen

<https://prop65clearinghouse.com/articles/1348>

3. Evidence on the Carcinogenicity of Marijuana Smoke

<https://prop65clearinghouse.com/documents/64215>

4. OEHHA listed marijuana smoke

<https://prop65clearinghouse.com/documents/64216>

5. State Lists Cannabis Smoke and THC under Prop. 65

<https://prop65clearinghouse.com/articles/14097>

6. notices to dispensaries

<https://prop65clearinghouse.com/documents/64217>

7. Michael DiPirro v. Downtown Patient Group

<https://prop65clearinghouse.com/documents/64219>

8. notices on companies

<https://prop65clearinghouse.com/documents/64218>

9. CAPA v. Cannabis Buyers Club of Berkeley

<https://prop65clearinghouse.com/documents/64220>

10. notices to date

<https://prop65clearinghouse.com/documents/64221>

11. Environmental Health Advocates v. Gravitron, LLC

<https://prop65clearinghouse.com/documents/64222>