

# SENATE FLOOR ALERT

## SB1186 (Wiener) – Medicinal Cannabis Patients’ Right of Access OPPOSE

**DATE:** August 31, 2022

**TO:** Members of the California State Senate

**Re:** SB 1186 (Weiner) – *Medicinal Cannabis Patients Right of Access Act*

On behalf of the Public Health Institute, a 501c3 that has served California to promote public health for over 55 years, we respectfully request your nay vote on SB1186. While we recognize the intent of the author, this bill is an inadmissible amendment of Proposition 64 that will over-ride local control, a fundamental principle of legalization promised to the voters in 2016. It will force local governments to allow medical cannabis delivery statewide and limit the ability of local governments to moderate local retail practices including the sale of products posing specific dangers or attractive to children.

### Vote no because:

- **It over-rides local control and limits needed authority of local government to prudently regulate the number of cannabis delivery retailers with medical operations, their operating hours, their delivery practices, or types of products sold.** A number of California jurisdictions have imposed wise restrictions on sale of products that clearly attract children and youth (Mono County, Mammoth Lakes, Turlock, and 8 others), or specific products that attract teens such as “Cannapops” like cannabis orange soda (Pasadena, Chula Vista), or flavored products for inhalation (such as those the legislature wisely banned for tobacco like grape vapes) and vapes (Contra Costa County). With SB1186 a single medical patient requesting a grape vape may be sufficient to force locales to allow sale of these flavored products, with resulting risk of youth initiation.
- **It is not a permissible amendment** of Prop 64. Mr. Michael Colantuono, a City Attorney and respected public law expert, concluded: “**SB 1186 exceeds the Legislature’s authority because it contravenes AUMA’s purpose to preserve local control of land use decisions related to cannabis commerce.** Any expansion of that authority violates AUMA’s plain language and exceeds the Legislature’s authority. If this proposal is to become law, it requires two-thirds approval in the Legislature and voter approval.” He continues “California courts have concluded Business & Professions Code section 26200 applies to medicinal cannabis businesses (*City of Vallejo v. NCORP4, Inc. (2017)*) ...state law permitting medicinal cannabis distribution does not preempt local jurisdictions’ authority under Business & Professions Code section 26200 to allow, restrict, limit, or exclude such businesses.”
- **Because it is not needed.** All Californians can legally grow and possess cannabis. In addition, over 60% of Californians already live in areas served by legal retail commerce – our NIH-funded research finds that, contrary to industry claims, 291 cities and counties allow some cannabis retail sale in 2022. Our research with Kaiser Permanente on over 100,000 pregnant residents of 35 counties, early data shows that 73% of those living even where sale is not allowed live within a 20 minute drive of a legal storefront retailer, even without considering delivery licensees. Adult use cannabis retail sales alone grew steadily by 249% between 2018 and 2021. Yet daily use has tripled, use during pregnancy has almost doubled over a decade. Cannabis related ER visits increased by 53% between 2016-2019. There were 149,000 in 2019.
- **Because it will not solve the problem of an illicit market driven largely by overproduction.** We cannot and should not try to solve the important challenge of the illicit market by forcing communities to license for-profit cannabis businesses who seek to drive up sales to consumers.

**For these reasons, the Public Health Institute urges your “NAY” vote on SB1186.**

For questions regarding this alert, please contact Dr. Lynn Silver at (917) 974-7065 or lsilver@phi.org.