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Oregon Lawmakers Roll Back New Drug War Strategy And Revert To Decades-Old Approach Linked To Soaring Overdose Deaths

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Oregon's Measure 110, which decriminalized drug use and ramped up harm reduction, took effect in 2021, at the peak of the COVID-19 pandemic. After barely giving it a chance to have any effect, lawmakers got cold feet and decided to return to the tried and failed approach that has made the war on drugs America's longest and most disastrous war.

Oregon voters passed Measure 110 in November 2020, which put an end to caging people who choose to consume drugs that the government prohibits. The drug decriminalization measure went into effect on February 1, 2021, at the height of the COVID-19 pandemic—a time when lockdowns and social distancing policies cut off people who use drugs from lifesaving harm reduction and treatment programs while exacerbating the isolation and despair that drive self-medication.

This unfortunate timing, plus a delayed rollout of the harm reduction and treatment programs that Measure 110 envisioned and funded, is why RTI Institute researcher Alex Kral, PhD informed attendees at an academic conference in Salem, Oregon last month that there were only four months of data useful for gaging Measure 110's effects.^[1]

Responding to a dramatic increase in opioid-related overdose deaths that exceeded the national average since the measure took effect, lawmakers have decided to revert to the old tried and failed method of incarcerating people who use illicit drugs, a policy that has seen overdose deaths rise exponentially since at least the late 1970s. Oregon lawmakers overwhelmingly passed HB4002 today, recriminalizing drug use, and the governor is expected to sign it. HB 4002 also lets people arrested for drug possession avoid jail time if they enter a government-prescribed rehab program (though many people who use illicit drugs may not necessarily be addicted).

Oregon voters were mistaken if they believed that decriminalization alone would reduce overdose deaths. Decriminalizing is not the same as legalizing. If people who use drugs need to get them on the black market, they can never be sure of the dose or purity of what they are buying or if it is the drug they think they are buying.

And though ending drug prohibition will make drugs safer, regulated, and more difficult for minors to obtain—which is what happened when the US ended alcohol prohibition—harm

reduction strategies will always be necessary and, sometimes, lifesaving, as they are for people who consume alcohol and tobacco.

With only four months of valuable data, Oregon lawmakers rushed to judgment and concluded decriminalization caused the disproportionate rise in overdose deaths over the past couple of years. However, researchers took a closer look at the data and found decriminalization had no connection to the increased overdose rate. It's all about the fentanyl.

Numerous studies have shown that illicit fentanyl flooded the drug market in waves, beginning in the eastern US and working its way west. Work by Brandon del Pozo and colleagues at Brown University shows nearly identical surges in overdose rates in every region of the country as fentanyl began dominating the drug market. By 2018, almost 90 percent of overdose deaths involving fentanyl and its analogs occurred in 28 states east of the Mississippi River. Additional research published in 2023 showed a similar wave making its way across the country, finally dominating western states, including Oregon, by 2021—the year Measure 110 went into effect.

Del Pozo and colleagues used Centers for Disease Control and Prevention overdose mortality data from 2008–2022 and a synthetic control group consisting of 48 states and the District of Columbia to study the association between overdose fatality rates and Measure 110. They used a changepoint analysis to determine “when each state experienced a rapid escalation in fentanyl.” They concluded: “After adjusting for the rapid escalation of fentanyl, analysis found no association between M110 and fatal drug overdose rates. Future evaluations of the health effects of drug policies should account for changes in the composition of unregulated drug markets.”

The researchers also saw an increase in the fatal overdose rate once Washington State recriminalized drug possession in 2023 after its Supreme Court, in 2021, overturned a state law that made drug possession a felony (State vs. Blake).

Sadly, Oregon's lawmakers didn't give decriminalization combined with harm reduction a chance to work. They are delusional if they think going back to the formula that caused countless avoidable overdose deaths and filled our prisons is going to work now when it has never worked before.

And forcing people to enter rehab or face incarceration is bound to fail as well. Plenty of research suggests that, except in certain circumstances where drug users are uniquely self-motivated (such as doctors and commercial airline pilots who fear losing their licenses), coercive treatment is futile at best and may increase the likelihood of overdose in people who relapse after release from treatment.

Oregon's drug recriminalization is a painful setback to the cause of ending America's longest war. While not a substitute for legalization, decriminalization gave Oregon lawmakers a chance to move the country toward a more rational and humane drug policy. Sadly, they flinched.

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