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Sandra Fish

Contributor

Lawmakers Grapple with Booming Medical Marijuana Business

POSTED: 04/8/10

FILED UNDER: HEALTH CARE, BALLOT MEASURES

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Sandra Fish/Politics Daily

Dr. Reefer.com's neon sign glows across the street from the University of Colorado in Boulder. Medicine on the Hill, which serves up pot-laced ice cream, is across the street from a Boulder police annex. And in Denver, a former member of President Barack Obama's national finance committee runs Apothecary of Colorado, a medical marijuana

dispensary with the motto, "healing with a higher purpose."

Ten years after Colorado voters approved a medical marijuana measure, business is booming. There are an estimated 63,000 people with patient ID cards allowing them to buy pot for illnesses ranging from cancer to "severe pain." To serve all these consumers, entrepreneurs have opened hundreds of dispensaries – no one knows how many because there's no central regulation. In the university town of Boulder, for instance, there are between 60 and 70 medical marijuana shops, more than twice the 25 retail liquor stores. Meanwhile, the state, cities and counties are struggling to regulate the industry, which until recently has had little government oversight. And, the proliferation of patients and pot dispensaries has given more legitimacy to the drug. Like their California counterparts, Colorado voters could potentially see a ballot measure in November asking them to legalize marijuana, even though federal law makes it a crime to possess or distribute the drug.

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Fourteen states have legalized marijuana for medical purposes, while Maryland allows a medical defense in criminal cases. Once medical marijuana is legalized, though, governments face issues such as which health conditions warrant its use, who determines that a patient needs marijuana, who grows it, and who sells it.

"One way the states have tried to handle this is through the registration process," said Robert Mikos, a Vanderbilt University law professor who studies marijuana laws. "The other way to do this is to control this as a prescription drug. At this stage, nobody has ever proposed going that far. No pharmacy is going to carry this stuff."

Mikos points to New Mexico as a state that's done one of the best jobs of regulating the industry. That state allows patients to possess up to six ounces of marijuana, while caregivers may serve a maximum of four certified patients.

Colorado's relatively sudden herbal blossoming results from two factors, medical marijuana proponents say. In 2007, a court overruled a limit of five patients for each provider. Then, last fall, the U.S. Department of Justice issued a memo recommending against federal prosecution of providers or users in states that allow medical marijuana.

"Essentially it was a low-key issue for a number of years," said Mason Tvert, executive director of SAFER, a national, nonprofit group aimed at educating the public about marijuana.

But the issue is no longer low key. Cities are struggling with zoning for dispensaries, while the state Legislature is considering measures to regulate who can prescribe and sell medical marijuana.

At the local level, several cities in Colorado are trying to prohibit marijuana dispensaries altogether. Others, most notably Denver and Boulder, are enacting zoning and licensing regulations. Boulder, for instance, is considering an initial license application fee of \$3,000 for a dispensary applicant, plus a license fee of \$3,000 with a \$2,000 annual renewal. Denver charges \$2,000 for an application, with a \$3,000 annual license fee. The cities also collect sales tax on medical marijuana, with Boulder collecting \$52,000 through November 2009, most of it in the latter half of the year.

"Our members all agree on maintaining local authority," said Mark Radtke, a policy advocate for the Colorado Municipal League. "That's everything from zoning control, siting these establishments, density, all the public safety and health issues."

At the state level, the Legislature is considering several measures to regulate medical marijuana providers and the doctors who certify patients. Sen. Chris Romer, a Denver Democrat championing regulations, at one point likened the situation to a "Wild West explosion."

One measure would require doctors who certify medical marijuana patients to have a "bona fide" health care relationship -- a response to concerns that a handful of doctors are certifying the majority of patients. It also would prohibit doctors and dispensaries from having financial relationships with each other. Another proposal would require state, as well as local, licenses for dispensaries. That bill would also regulate how and where providers grow marijuana, and more.

"Everybody agrees that the state has to come up with rules as to how do you license a caregiver, how do you handle a grower situation," Radtke said. "We're really talking about drug laws here."

Providers are among those actively advocating regulation, in part because they see it as a form of legitimacy. Plus, regulated dispensaries mean patients don't need to rely on drug dealers to get marijuana. They've hired lobbyists at the state level and formed groups to work with local governments on regulations.

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"We're pushing for a system of regulating dispensaries," said Brian Vicente, executive director of [Sensible Colorado](#), a group advocating legalization. "For us, the chaos is sending cancer patients to street corners and public parks to get medication."

And there are plenty of patients. Medical marijuana users must be certified by a doctor to have one of several conditions, ranging from severe pain to cancer. As the number of providers exploded, so did the number of patients in the state, more than doubling in the last quarter of 2009.

That created a backlog for the state agency charged with registering patients. Last month, the Department of Public Health and Environment [announced](#) it would no longer accept walk-in applications for patient cards. The agency estimates it's receiving 1,000 applications a day, up from 270 a day last August. It hasn't updated its [statistics](#) on the number of medical pot users since the end of September, when there were more than 17,000 on the rolls. The current estimate of 63,000 is through the end of February. Officials estimate 40,000 Coloradans will apply to use medical marijuana in 2010-11 (the state charges a \$90 application fee).

Colorado's consternation over regulation contrasts with California, where there's so few rules that Mikos said marijuana might as well be legal.

"California is the regime that's most out of control," Mikos said. "They have no mandatory registration. They don't even require a written recommendation, an oral recommendation is fine. There are no quantity regulations. The counties are trying to take some steps ... but it's really tough to get a hold on this."

That state is taking the next step in the fall, when voters will be asked to [legalize marijuana](#) on the premise it will raise money to offset billion-dollar deficits.

For Wanda James, the Obama national finance committee member, manager of U.S. Rep. Jared Polis' successful 2008 congressional campaign and co-owner of the Apothecary of Colorado dispensary, legalization is the ultimate goal.

"My husband and I have been battling with America's pot laws for 20 some years," she said. "It's affected members of our families in negative ways."

Denver residents [voted](#) to make marijuana legal for adults in 2005. That effort was largely symbolic because the city's police brass vowed to enforce tougher state anti-drug laws. In 2007, voters passed a [measure](#) urging that such enforcement be the lowest priority. Meanwhile, the ski town of Breckenridge voted to make pot legal last November. The tiny mountain town of Nederland voted for legalization Tuesday, while the Western Slope town of Fruita enacted an extra 5 percent sales tax on medical marijuana.

"There's a growing level of support for making marijuana legal and regulating it and taxing it like alcohol," Tvert said. "More and more cities and towns are passing these measures."

Tvert, Wanda James and others are working on the fall measure. It would legalize and regulate marijuana for adults, and "would treat it very similarly to alcohol," Tvert said.

"We've done polling," James said. "It's about 50-50 out there in Colorado right now."

Mikos said it was possible medical marijuana proponents foresaw legalization as an ultimate goal all along.

"I don't think everyone who voted for these things necessarily thought that at the outset," he said. "But it's a fair test; if you legalize marijuana for one purpose does the world end? If it's OK to use this for these other medical conditions ... maybe we ought to think about full-scale legalization."

In California, marijuana legalization proponents say taxing pot could bring in \$1.4 billion a year, an estimate Mikos and others say may be overly optimistic. Even taxes on medical



marijuana aren't making much of a dent in Colorado revenues, Radtke said.

"Cities and towns are beginning to apply the sales tax to any sales of this," Radtke said. "But it's going to be a small piece of anyone's revenue picture."

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Sandra Fish

Sandra Fish is a journalism instructor at the University of Colorado who's covered state government and politics in Iowa, Florida and Colorado... [more](#)

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goin2dahdumps

5:10AM Apr 8th 2010

Legalize it, tax it and watch how quick the Mexican drug-lords will go out of business.

There is no better way to bring to a screeching halt the violence and deaths occurring south of the border in ciudad Juarez and El Paso, Texas..

RATE THIS COMMENT: (113)

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kat

6:16AM Apr 8th 2010

I agree, but my personal observation is to even further, William Buckley and I agree, Legalize all illegal drugs, Tax it. And you put it goin2da, it cuts out the Columbian and Mexican Drug Lords. I truly hate saying more taxes, but I feel like its the only way to win this one! Because the way we've been going about it has not worked for many years.

RATE THIS COMMENT: (58)



knute9

6:41AM Apr 8th 2010

The War on Marijuana has be going on now for over 70 years. More people have smoked marijuana today, by percentage, than in 1937. Presently the usage of marijuana is about the same as cigarettes among teenagers. The Netherlands, where it's legal, has a far lower use of marijuana among teenagers. Is that called success? The only thing wasted is tax money. We are paying far more taxes today because the prohibition of marijuana. 70 years of wasted money on enforcement, judicial, and prison systems. A failure from start to finish, we've spent a lot of money going backwards. Also we lost all the tax monies by not taxing it. Talk about waste in government. The tax monies would be better spent on education and PR campaigns. It is well known that Al Capone was a big supporter of the prohibition of alcohol. Why? There's a lot more profit to made in the untaxed market. There's so much profit that Capone bribed numerous politicians and law enforcement officials. The strategy right now is to unsure that marijuana is not taxed or sales regulated. Presently the drug cartels are controlling the production and sale of marijuana, not our government. Do you think a drug dealer going to ask a kid for ID? There is a drug war happening south of the border which is undermining the Mexican government. Half the revenue of the drug cartels come from the production and sale of marijuana. By legalizing marijuana would effectively remove 50 percent of the cartels monies. And any business, legal or illegal, who loses half their revenue faces a great chance of complete collapse. Let us not forget that the hemp plant (marijuana) has many viable commercial and industrial uses (energy, material, medical, etc). Did you know that our founding fathers George Washington and Thomas Jefferson grew hemp, and that the Declaration of Independence is written on hemp paper? Finally, the last three Presidents of the United States of America have smoked marijuana at one time. It's now the time to end the prohibition of marijuana. Legalize it, Regulate it, Tax it.

RATE THIS COMMENT: (140)



harold

6:58AM Apr 8th 2010

WRONG, they are already enhancing their presence in Colorado, violence begets violence. Look at the vehemence directed at any who suggests making it a prescription drug. Dispensary & Grower Burglaries are rising.

We even have a U.S. House Representative, Jarrod Polis, who requested the Federal Attorney General, Eric Holder, to order the cessation of Federal Marijuana Law Enforcement in Colorado.

RATE THIS COMMENT: (-60)

Julie McAllen
12:02PM Apr 8th 2010

I don't use it but I say lets legalize it for recreational purposes, tax it and get rid of the drug lords and improve the economy.

RATE THIS COMMENT: (90)

Sevensfatboy
6:49PM Apr 8th 2010

Obama won't legalize pot....it might create a job or two

RATE THIS COMMENT: (-1)

eral
6:06AM Apr 9th 2010

COM ON NOW think about it do you really wan't so many people to be able to grow, Two words supply and demand if you increase the supply you had better hope there's a larger and growing customer base to consume it, as soon as they would set up grow shops around the country people would catch on to the CORRECT way to grow their own and it won't be taxed, just more around!

RATE THIS COMMENT: (-39)

sagittalgop
10:54AM Apr 9th 2010

AS A REPUBLICAN i think it would be better TO PUT THESE POTS HEADS IN JAIL AT 35K A YEAR to LOWER MY TAXES

RATE THIS COMMENT: (-111)

jimwzdp
9:56PM Apr 10th 2010

sagittalgop yammers:

"AS A REPUBLICAN i think it would be better TO PUT THESE POTS HEADS IN JAIL AT 35K A YEAR to LOWER MY TAXES"

Just how is locking up more people, with the additional costs to do it, supposed to LOWER taxes.

...

RATE THIS COMMENT: (31)

smegmagop
9:03AM Apr 11th 2010

DRUG TESTING is so much better way for me to spend my money AS A REPUBLICAN -wage portion control

RATE THIS COMMENT: (-43)

Bfrjds1981
12:19PM Apr 11th 2010

And the same goes for Cuban cigars. Right now it is a Federal crime and can land you in the pen for 5 years and cost you about \$6,000 for a single cigar. This is just crazy. Same goes for the Havana Club rum or even a bag of Cuban coffee.

It was reported that last year, 20 million Cuban cigars made their way into the country. With the web now it is easy to order the real thing from places in Europe. Not that I ever would. But I can tell you something that is 100% true, they are the best cigars in the world by far.

It is even illegal to smoke one while you are in another country. Welcome to the land of the free. Well I am off to grab a stogie right now, non Cuban of course.

RATE THIS COMMENT: (17)

hellnobuthellno
12:48PM Apr 12th 2010

humps is usually full of it ..but hes right on this on.. but this is the only one LOL

RATE THIS COMMENT: (1)

sagittalgop
9:29AM Apr 13th 2010

REAGAN started the republican WAR on average people to average to get rich like them -CONSERVATISM IS A DISEASE THAT HELPS THE FEW AND HURTS THE MANY -just look at the BUSH/CHENEY YEARS

RATE THIS COMMENT: (17)

gmtmr
2:47PM Apr 13th 2010

I agree 100%

RATE THIS COMMENT: ★★★★★ (5)

dhw42977
11:34PM Apr 13th 2010

I couldn't agree with you more. Kat, you and Mr. Buckley are right on the money. Legalization of marijuana is a step in the right direction, but i think legalizing all drugs will help slow down the violence in the border towns. As terrifying as legalizing hardcore drugs is to most of America, myself included, I do believe strongly it is necessary to save lives. More lives will be saved with legalization than will be taken. Not to mention how much money will be saved putting an end to this war on drugs that we are losing badly

RATE THIS COMMENT: ★★★★★ (9)

Loren
5:32AM Apr 8th 2010

Medical marijuana is an excuse for pot heads to get their weed. Marinol is the active ingredient in marijuana, and is readily available by prescription.

RATE THIS COMMENT: ★★☆☆☆ (-107)

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notforfaintheart
9:02AM Apr 8th 2010

Marinol is also extremely harsh on the digestive system -- if your medicine is turning your stomach it's hard to see how it's going to help you with your appetite.

RATE THIS COMMENT: ★★★★★ (52)

JIM STUTSMAN
1:05AM Apr 10th 2010

THOUGH MARINOL CAN WORK FOR SOME, IT IS POINTLESS TO GIVE SOMEONE A PILL IF THEY ARE VOMITING FROM NAUSIA. MOST DOCTORS RECOMMEND USING A VAPRIZER THE DAYS.....

RATE THIS COMMENT: ★★★★★ (27)

shiftless
6:31PM Apr 10th 2010

plus only Americans would be so stupid as to illegalize a plant, then make the active ingredient available in pill form (which is a much worse way to deliver the drug), instead of just allowing people to smoke the plant in the first place.

RATE THIS COMMENT: ★★★★★ (30)

Kate O
2:05PM Apr 13th 2010

Why is Marinol "good" and Marijuana "bad"?

Prescription drug companies want pot as a plant to stay illegal so they can profit off of a natural health-enhancer. As if their ridiculously high prices aren't not killing off enough poor old folks that can't afford their prescriptions to stay alive, they have to profit off of weed, too. What's next, prescription water? Prescription food?

Lay off the "potheads" that hurt no one and attack the prescription drug companies that hurt millions for profits from requiring people to pay them 2,000% prices them to live. Whatever happened to the "right to life" we are guaranteed in the Constitution?

As long as the prescription drug companies have their way, they will suck the lives and liberties out of American citizens that were once guaranteed these rights, just so their spoiled, rich, little tantrum-driven daughters can broadcast their lavish "Sweet 16" parties on MTV.

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