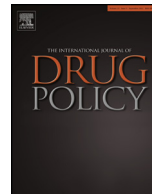




Contents lists available at [ScienceDirect](#)

International Journal of Drug Policy

journal homepage: www.elsevier.com/locate/drugpo



Policy Analysis

Issues in the implementation and evolution of the commercial recreational cannabis market in Colorado[☆]

Todd Subritzky^{a,*}, Simone Pettigrew^b, Simon Lenton^a

^a National Drug Research Institute, Faculty of Health Sciences, Curtin University, Perth, WA, Australia

^b School of Psychology and Speech Pathology, Curtin University, Kent St, Bentley, WA, 6102, Australia

ARTICLE INFO

Article history:

Received 21 September 2015

Received in revised form 27 November 2015

Accepted 1 December 2015

Keywords:

Cannabis
Regulation
Colorado
Marijuana
Testing
Edibles
Dabbing

ABSTRACT

Background: For almost a century, the cultivation, sale and use of recreational cannabis has been prohibited by law in most countries. Recently, however, under ballot initiatives four states in the US have legalised commercial, non-medical (recreational) cannabis markets. Several other states will initiate similar ballot measures attached to the 2016 election that will also appoint a new President. As the first state to implement the legislation in 2014, Colorado is an important example to begin investigating early consequences of specific policy choices while other jurisdictions consider their own legislation although the empirical evidence base is only beginning to accrue.

Method: This paper brings together material sourced from peer reviewed academic papers, grey literature publications, reports in mass media and niche media outlets, and government publications to outline the regulatory model and process in Colorado and to describe some of the issues that have emerged in the first 20 months of its operation.

Results: These issues include tension between public health and profit, industry and investment, new methods of consumption, the black market and product testing.

Conclusion: The paper concludes that, while it is too early to determine the impact of the scheme, and noting that it includes some features designed to mitigate adverse impacts, it faces major challenges. Not least of these are the lack of an effective overarching federal regulatory structure, as a consequence of the federal prohibition on cannabis, combined with a rapidly growing cannabis industry which, like other industries, will seek to exploit loopholes to maximise profit.

© 2015 Elsevier B.V. All rights reserved.

In 2012, Colorado legalised a commercial, non-medical (recreational) cannabis (termed marijuana in the US context) market for adults via amendment 64 by ballot initiative. The State legislature set up a task force with 30 stakeholders including lawyers, public health representatives, consumers, legislators, cannabis industry insiders and others who produced 58 recommendations for the development of initial regulations (Brohl & Finlaw, 2013; Colorado Department of Revenue and Marijuana Enforcement Division, 2013). The taskforce was guided by nine principles set out in the amendment most notably: ensuring the safety of Colorado youth; efficient regulation that is not overly burdensome; the ability to respond to consumer needs; and a predictable funding mechanism under the new law (Hickenlooper, 2014). As noted by Governor Hickenlooper (2014, p. 1), “We are working as a convener for all interested parties and experts to

shape public policy that utilizes the decades of public health lessons gained from regulating alcohol and tobacco”. As of September 2015, recreational cannabis licenses have been granted in Colorado to 385 retail stores (dispensaries), 496 cultivators and 141 infused product manufacturers (Colorado Department of Revenue, 2015b). This paper addresses issues stemming from the resulting regulation as described below.

Background

Existing literature has necessarily been limited to speculation and modelling the implementation and potential implications of a commercial cannabis market (Caulkins et al., 2015; MacCoun & Reuter, 2001; Rolles & Murkin, 2013; Room, Fisher, Hall, Lenton, & Reuter, 2010). A major concern for public health commentators has been that given the widespread use of cannabis (Kilmer & Pacula, 2009; United Nations Office on Drugs and Crime (UNODC), 2014), small increases in consumption could result in large-scale increases in harm (Lenton, 2013). This is primarily because even if the proportional increases in harm are small, the sheer number of

[☆] Declaration: Runs website marijuanasurveys.org.

* Corresponding author.

E-mail address: todd.subritzky@postgrad.curtin.edu.au (T. Subritzky).

users may result in large net increases in numbers of people experiencing harm (dependence, motor vehicle accidents, mental health problems, respiratory problems etc.) and seeking services. It has been proposed that regular and heavy cannabis users and the young will be particularly susceptible to any increases in cannabis availability occurring as a result of the Colorado scheme (e.g. Hall & Degenhardt, 2015). Such risks may be amplified via profit-focused models of recreational cannabis markets (Caulkins, 2014). The implementation of the Colorado model provides an opportunity to go beyond speculation to gather evidence on the real world application of a recreational cannabis policy, thereby potentially informing policymakers and researchers about what not to do as well as being a blueprint for other schemes. While respected scholar Kleiman has reportedly described it as the second worst outcome behind prohibition (Lopez, 2014, December 17), implementation of the Colorado model has received a self-assessed “A” grade from Colorado’s director of marijuana coordination, Andrew Freedman. He explained that they started with no template to guide new legislation and emphasised that from the state’s perspective, legislation was driven by public health concerns as opposed to tax revenues (The Cannabist, 2015a, March 27). Unfortunately, given data lag and other factors, it may take years or even decades for the full extent of the scheme’s impact on consumption patterns and user initiation rates to become clear (Pacula & Sevigny, 2014). As a consequence, the majority of early insights are likely to focus on regulations and implementation as opposed to outcomes (Caulkins et al., 2015).

As the academic literature on the implementation of the Colorado scheme is only now beginning to emerge, this paper brings together material sourced from peer reviewed academic papers, grey literature publications, along with reports in mass and niche media outlets and government publications. It addresses tension between public health representatives and profit focused firms, the influence of industry and investment, the relevance of the cannabis market as a cash-based economy, politics and public opinion, changes in methods of consumption, testing (in relation to both products and consumers), the definition of the black market, school funding, drug education programs and staff training and other issues. The remainder of this paper will address each of these in turn after describing the Colorado regulatory process.

Regulatory process

The legal status of the Colorado commercial cannabis market is complex. Labelled “quasi-legal” by Hawken, Caulkins, Kilmer, and Kleiman (2013), there is variance in and crossover between international, federal, state, local and tribal jurisdictions. Federally, botanical cannabis remains a prohibited schedule I substance that according to the Drug Enforcement Administration (2015) legally has “... no currently accepted medical use and a high potential for abuse”. On the other hand a number of states have approved the consumption of medicines (such as Marinol[®] and Satvex[®]) comprising extracted cannabinoids (individually or in combination) (see Rodgers, 2014, July 29). In addition, the US Government appears to own a patent for using extracted or synthesised cannabinoids to treat a variety of diseases (Leaf Science, 2014, July 25). These contrasting frameworks impact directly on the Colorado market in several important ways.

The new regulations regarding cannabis policy are important from a public health perspective, with the intention to regulate the availability, supply and promotion of cannabis in order to protect the most vulnerable. The process that governs the recreational cannabis market in Colorado has been described as a “work group model” by Christian Sederberg, an attorney from the cannabis industry who was an integral member of the Amendment 64 campaign (Garcia & Manning, 2015, August 25). General

legislation must first pass through the House and Senate, usually with a deadline for final implementation. Once passed, a work group is formed consisting of stakeholders representing industry (including cultivators, product manufacturers, testing facility operators and marketing professionals), public health (including representatives from Children’s Hospital, a School Resource Officer and the Department of Health and Environment), law enforcement (including County Sheriff of Colorado and Association of Chiefs of Police), regulators, and so on, who collaborate via work group meetings and public hearings to fine tune the detail (House Bill 14-1366 Edibles Work Group, 2014a). The process in theory leads to a comprehensive regulation when agreement is reached, although in practise it can and has resulted in regulatory paralysis due to lack of consensus (see for example Ingold, 2014b, October 20; Ingold, 2014d, November 17; The Denver Post Editorial Board, 2014, November 22). Opposition groups contend “... promised regulation has been met by an industry that fights tooth and nail any restriction that limit its profitability” (The Gazette, 2015, March 22).

Nor is the law uniformly implemented across the state, with local areas empowered to a considerable extent and only 67 of 321 jurisdictions opting to allow medical and recreational dispensaries (Brohl, Kammerzell, & Koski, 2015). Cannabis businesses are subject to regulations from the Colorado Department of Revenue Marijuana Enforcement Division (2015) which stipulate comprehensive licensing criteria, inventory tracking procedures (see Metrc, 2015), a framework for testing compliance, expensive security measures such as 24 hour video on every cannabis plant, restrictions on proximity to schools, and limitations on most forms of advertising such as targeting minors (Endejan, 2015). Initial rules, which have since expired, outlined vertical integration whereby retailers were obliged to cultivate at least 70% of their own product, which strongly hindered wholesale distribution (Schroyer, 2014, October 1). Since October, 2014, Colorado residents could apply for licenses as stand alone wholesale growers or retail only stores with specific regulations for each market segment (Ingold, 2014c, June 30). In addition, requirements of the Colorado Department of Revenue, Department of Public Health & Environment, Fire & Safety and compliance with standard classification of child resistant packages as outlined by American Society for Testing and Materials (ASTM) must be met.

However, federal prohibition means there exist no standards for testing under frameworks established by the Food and Drug Administration (Allen, 2015, April 28). Moreover, there are currently no pesticides registered for cannabis in the U.S. (Stone, 2014) (product testing is discussed further below). Zoning and building codes contribute additional layers of compliance. For the consumer public there are (i) age restrictions, (ii) regulations preventing public consumption and (iii) differences in quantities allowed to be purchased by locals and those from out of town. The regulatory environment, it should also be noted, is extremely dynamic and constantly evolving at state and local levels.

Predictably, the industry has protested that the regulations are too onerous. Thus the term ‘regulatory tsunami’ has been used by some firms to describe the processes that they claim to restrict cottage growers because of the financial burden that only larger businesses can afford (Johnson, 2015, April 23). One industry insider commented, “This industry has been regulated into absurdity, it’s like you’re handling nuclear material” (Gilboy, 2014, October 23). Others contend that over-regulation contributes to a larger black market (discussed below).

Commercialism and public health tension

The commercialised regulatory model of the Colorado cannabis market crystallises tension between industry profit and public

Download English Version:

<https://daneshyari.com/en/article/7512867>

Download Persian Version:

<https://daneshyari.com/article/7512867>

[Daneshyari.com](https://daneshyari.com)