



Legalization Bill Divides Maine's Pot Community

by Andy O'Brien April 25, 2013

It's been over 40 years since President Nixon declared the War on Drugs, and now cracks are forming in public support for the policy.

Back in November, Washington and Colorado became the first states to effectively decriminalize the use and sale of marijuana.

A recent Pew Research Center poll found that a majority of Americans favor marijuana legalization for the first time since polling on the issue began in the 1960s.

Predictably, politicians of both political parties have begun "evolving" on the issue. Maine's 1st District Democratic Congresswoman Chellie Pingree is currently one of 15 members of Congress who has signed onto H.R. 499, the "Ending Federal Marijuana Prohibition Act of 2013." Republican Rep. Dana Rohrabacher of California has submitted H.R. 1253, the "Respect State Marijuana Laws Act," which would end federal enforcement of marijuana laws in states that have already legalized it for sale and consumption. Back in December President Obama famously said that he has "bigger fish to fry" than cracking down on legalization states.

Currently Maine is one of 18 states that allows marijuana to be recommended and used for medicinal purposes, but new proposals are currently in the pipeline to allow it for recreational use. In Portland, signature gatherers are trying to get question on the November ballot to legalize the herb within the city limits. Meanwhile, Rep. Diane Russell (D-Portland) has submitted LD 1229, a bipartisan-sponsored bill to set up a comprehensive regulatory structure for the sale and taxation of recreational marijuana in Maine. If passed, the measure would be sent out for voter approval.

"As a fiscal conservative, I see great potential for economic growth in removing the prohibition," the bill's lead co-sponsor Rep. Aaron Libby (R-Waterboro) said in a February press conference. "It will also produce huge amounts of savings in enforcement. It'll be a boost for agriculture. I believe that ending marijuana prohibition is a true part of limited government."

A 2010 study by the libertarian Cato Institute estimated that Maine could generate \$12.2 million in annual tax revenue and save an additional \$14.3 million in enforcement costs if it legalized and taxed marijuana.

However, Russell's bill has split Maine's marijuana activist community, and for longtime pot advocate Harry Brown of Starks, the devil is in the details.

"The big problem with LD 1229 . . . is that it is set up to benefit out-of-state corporate interests and leaves Mainers trimming cannabis for minimum wage," Brown recently wrote in a widely circulated email.

In the aftermath of Maine's 2009 medical marijuana law, patients and medical marijuana growers - called caregivers - lobbied for more relaxed laws for small marijuana farmers and patients. Grassroots organizations like the Medical Marijuana Caregivers of Maine (MMCM) support a more decentralized approach to the supply and distribution of medical marijuana, rather than the more centralized business structure of the dispensary system.

"Business is driving the change"

Meanwhile, with the drug cartels on the verge of being forced to give up a multimillion-dollar black market industry, Wall Street is watching closely. A March cover story from Fortune Magazine titled Marijuana Inc. - Meet the Entrepreneurs and Investors Firing Up a New Industry gave an inside look at a meeting between investors and cannabis start-ups that was facilitated by the marijuana investor network Arcview Group.

"Business is driving the change," Troy Dayton of the Arcview Group said in the article. "Business is the most powerful platform for political change that's ever existed. When there is money for government, money for investors, money for entrepreneurs, and benefits to communities, that's a powerful incentive for change."

Back in Maine, that trend has led to fear that LD 1229, which has been co-written by the national Marijuana Policy Project, is a Trojan Horse for big moneyed interests that will trample the little guy.

"They are lining up to wine and dine our representatives, getting to know who's who on the regulatory agencies and making business plans," Brown concluded.

That is a charge that Rep. Russell vigorously denies.

"This debate shouldn't be about who gets the money," said Russell. "This debate should be about who's going to have the freedom to do what they choose to do responsibly in their own home. This should be about making sure that we have revenue to fund our schools and our law enforcement and that those officers are spending their time on actual crimes that harm our communities."

LD 1229 - The Details

LD 1229 aims to remove all criminal penalties from selling and using marijuana. It also removes the civil violation for those possessing up to 2.5 ounces of pot. Under the proposal, retailers would be able to apply for a limited number of marijuana licenses.

LD 1229 would allow roughly half as many licenses in the state as there are liquor licenses, and the program would be overseen by the Bureau of Alcohol Beverages and Lottery Operations (BABLO).

It would also license cultivators and producers of marijuana products. Licensing fees would not exceed \$5,000. Sales of the herb would be subject to a 5-percent sales tax plus a \$50-an-ounce excise tax. Russell says the measure will generate about \$13 million in revenue for the state.

LD 1229 would also give non-profit medical marijuana dispensaries preference if they choose to become for-profit. Russell says the reason for that provision is because dispensaries are subject to a more rigorous state registration process than caregivers, who are not subject to the same strict standards.

But Russell argues that her bill would be friendly to small-scale local marijuana businesses because it explicitly gives preference to any applicant with at least one year of previous experience cultivating marijuana or in operating another business in the state.

LD 1229 would also give preference to new competing applicants over establishments already holding a license.

New England Imports

As the bill is written, it would also allow people over 21 to grow a maximum of six marijuana plants, including seedlings, which concerns MMCM spokesman Paul McCarrier. McCarrier says his members worry that since most gardeners sow more than six seeds when growing any other plant, many pot growers would end up breaking the law. Russell says she intends to amend the provision to allow six flowering plants and more seedlings, but McCarrier is skeptical that the Criminal Justice Committee will support the idea.

"From my discussions with members on the committee, they do not want to allow people to self-grow," said McCarrier. "They want it to be like the state liquor contract, where someone has to give tens of millions of dollars up front to have the exclusive right to distribute legal cannabis in the state."

As a liquor control state, Maine requires all hard liquor to be first sold to the state, then priced and warehoused by a private contractor, which is currently Maine Beverage.

Russell serves on the Veterans and Legal Affairs Committee, which oversees the negotiation of the state's lucrative liquor contract, and says she would not support a similar model for pot.

McCarrier also calls the proposed \$50 excise tax "obscenely high" and says it will lead consumers to purchase off the black market, leading law enforcement to bust them for tax evasion and unlicensed trafficking.

Russell disagrees and says the drop in prices following legalization will make up for the tax.

A widely cited 2006 study published by the Bulletin of Cannabis Reform estimated that the cost to produce an ounce of marijuana is about \$100 under prohibition. According to PriceofWeed.com, the average price of an ounce of pot in Maine is currently about \$343 an ounce for high quality and \$229 for low quality.

A November 2012 article in American Interest, a nonpartisan public policy magazine, hypothesized that legalization could reduce the cost of marijuana production to just 62 cents an ounce if it was allowed to grow as any other plant. By that estimate, costs would be driven more by government regulation than by actual cost of production.

Legalization debate a distraction from expanding medical marijuana treatment

For the Medical Marijuana Caregivers of Maine (MMCM), the legalization debate has become a distraction from their goals of expanding the number of conditions medical marijuana can be treatment for.

Under separate proposed legislation, qualified patients could legally buy medicinal marijuana from a neighborhood farmer or dispensary to treat a range of loosely defined conditions, such as anxiety and depression.

McCarrier says the MMCM group also intends to start their own legalization citizen initiative process, which he says would be carefully vetted and written by a wide stakeholder group. He says the Marijuana Policy Project may not have the best interests of locals in mind.

Supporters of the bill counter that the language of LD 1229 is not written in stone, and members of the public are welcome to provide amendment suggestions at next Friday's public hearing.

"I think it's jumping the gun to take a position on this bill before it even gets to the committee for a public hearing. Lots of times the bills get amended," said Marijuana Policy Project spokesman David Boyer, adding, "Maybe we should be questioning why it's a bad thing for business to come to Maine."

Some supporters of LD 1229 have accused MMCM of simply trying to protect their market share in opposing the proposal, a charge that the group denies.

"Anyone who isn't a drug felon can apply to become a caregiver and you can find someone to grow for," said McCarrier. "It's not limited licensing like in Rep. Russell's bill. They're trying to paint it like we're the greedy caregivers, but if you look at most caregivers, they're generally just getting by."

Vote on legalization seems inevitable

Whether the bill passes or not, supporters say it's likely there will be a citizen initiative to put legalization on the ballot some time in the future.

As the country's long-standing prohibition on marijuana faces a perfect storm of changing cultural attitudes, revenue-starved government budgets and big-money campaigns financed by well-heeled business interests, the wind appears to be at the backs of those in the legalization movement.

The Legislature's Criminal Justice and Public Safety Committee will take up LD 1229 on Friday, May 3.