



# How the Legalization of Marijuana Could Play Out

By: ELSPETH REEVE – December 13<sup>th</sup>, 2012

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Are we in the middle of a velvet kush revolution? The Obama administration still hasn't announced how it's going to deal with Colorado and Washington legalizing marijuana. Attorney General Eric Holder announced Wednesday the Justice Department would make an announcement about the conflicting laws "relatively soon." The Senate Judiciary Committee said Thursday it will hold a hearing on how to reconcile the laws next year; chair Patrick Leahy suggested a crackdown isn't what he has in mind. "Legislative options exist to resolve the differences between Federal and state law in this area and end the uncertainty that residents of Colorado and Washington now face," Leahy said in a statement. "One option would be to amend the Federal Controlled Substances Act to allow possession of up to one ounce of marijuana, at least in jurisdictions where it is legal under state law."

And it's not crazy to imagine the number of such jurisdictions will grow. While the decriminalization of marijuana is a serious issue — unequal enforcement of the law, penalties disproportionately high given the drug's widespread use and mild side effects — it's a little funny that legalization really could spread through a pet idea of dorm room stoners going back years: states will figure out they can make lots of money taxing weed. *Time's* David Von Drehle reports that the economic argument is a powerful one. One reason Colorado voters legalized the drug by a margin wider than Obama's margin of victory over Mitt Romney is "a canny campaign that called for regulating (and taxing) marijuana just like alcohol," Von Drehle writes in the magazine's next issue, excerpted by Politico. He explains:

The loopholes opened by medical-marijuana laws long ago scrambled the strange economics of dope. Supplies of the drug are now so abundant that the grass farmers of California's famed Emerald Triangle are being hammered by plummeting wholesale prices. ...

[S]ome form of gambling is legal in every state except Hawaii and Utah. Pot is likely to follow the same pattern. When other states get a look at the tax revenue rolling in... they will hurry to grab a share.

Von Drehle reports that the Obama administration hasn't responded to multiple requests for guidance by Colorado Gov. John Hickenlooper, which suggests it "hasn't decided how to react." Colorado Rep. Mike Coffmann has introduced the Respect States' and Citizens' Rights Act of 2012, which would protect Colorado and Washington's freedom to set their own weed laws. If Congress doesn't want to do pass a law, there's the court route, as Jacob Sullum explains at *Reason*. Citing a paper by Robert Mikos for the Cato Institute, Sullum explains that legalization advocates could argue that marijuana statutes are covered by the "limits that the anti-commandeering doctrine imposes on federal pre-emption of state law under the Supremacy Clause" — like when the Supreme Court held in 1997's *Printz v. United States* that the federal government couldn't require local officials to perform background checks on people buying guns.