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Pot legalization proceeds in key states with Feds mostly silent

By: Alex Dobuzinskis and Alina Selyukh - November 15, 2012

(Reuters) - The Obama administration's relative silence on moves to legalize recreational marijuana in Colorado and Washington has left officials in those Western states unsure how to move forward without running afoul of the U.S. federal government. But change is already afoot when it comes to how the two states and local authorities deal with marijuana.

Prosecutors in Washington state's two most populous counties, encompassing Seattle and Tacoma, and in Colorado's Boulder County are already dropping pot possession cases after state voters chose to legalize pot for recreational adult use.

Washington and Colorado became the first states in the nation to legalize recreational marijuana on November 6, putting both on a possible collision course with the federal government, which says pot remains an illegal narcotic under U.S. law. A similar move to legalize pot in Oregon failed.

Elsewhere, a pair of lawmakers in Maine and Rhode Island plan to introduce legislation to regulate and tax pot sales.

Colorado and Washington could eventually be forced to spend millions of dollars combined to establish bureaucracies to oversee marijuana sales - funds that might be at risk in any federal crackdown. But if legalization goes ahead, the states could also reap a tax windfall.

Because the drug remains illegal under federal law, state officials say they are looking to the U.S. Department of Justice for guidance.

"I think they're taking it seriously, and my hope is they really do say something definitive," Colorado Attorney General John Suthers said in a phone interview.

Suthers, a Republican, said one of the Obama administration's options would be to tell Colorado officials to "proceed at your own risk" with legalization, but he added that would put his state in a tough spot if the federal government later changes course.

"It would be an expenditure of time and effort that I prefer not to do, if in fact the federal government is going to take an aggressive posture," Suthers said.

In a letter to U.S. Attorney General Eric Holder on Tuesday, Colorado Governor John Hickenlooper, a Democrat, and Suthers asked if the federal government would sue to block legalization or if U.S. officials would view state employees who oversee the pot trade as "acting in violation of federal law."

Washington's Democratic Governor Chris Gregoire, who opted not to run for re-election and whose term ends in January, said she met this week with Deputy Attorney General James Cole to discuss legalization in her state.

END OF POSSESSION BANS

The pot measures approved in Washington state and Colorado would each allow personal possession of up to an ounce of marijuana, a provision set to go into effect within three weeks. They would also set up systems to regulate and tax the sale of pot at special stores to adults aged 21 and older.

But the initiatives allow lawmakers in each state to spend much of 2013 creating rules and regulations for state-sanctioned pot growing and sales operations.

The Department of Justice has said that marijuana remains a controlled substance and that the department was "reviewing the ballot initiatives." Federal officials have said little publicly beyond that statement.

Jodie Underwood, special agent in the Drug Enforcement Administration Seattle field division, said her office would not change the way it targets criminal operations. "The state law is not going to change how the DEA operates," she said.

The DEA has about 5,000 special agents and is tasked with stopping illegal narcotics from being smuggled into the United States and from being produced and distributed within the country itself.

"They want to focus on international traffickers and they want local police to do this stuff in the cities, and when a state like Colorado or Washington says we're not going to do this anymore, the feds, they're panicking," said Tim Lynch, director of the Cato Institute's Project on Criminal Justice.

Beau Kilmer, co-director of the RAND Corporation's Drug Policy Research Center, said many branches of the federal government could be involved in dealing with pot legalization, including the Internal Revenue Service, which could deny deductions or credits to businesses that sell recreational pot.

Even before the recreational legalization votes, both Colorado and Washington were among 18 states that allow medical pot, and both have private dispensaries of the drug.

In Washington state, the Office of Financial Management has estimated that taxes on marijuana could generate \$532 million in fiscal year 2015, the first full year of legalized sales if they are not blocked by the federal government.

Up-front costs of legalization are expected to exceed \$3 million, according to the Office of Financial Management.

In Colorado, questions linger after Suthers said the state cannot collect taxes of up to 15 percent on pot sales without further voter approval, casting doubt on how quickly legalization can be implemented.

State officials said the Department of Revenue would need \$1.3 million in the fiscal year beginning in July 2013 for licensing, regulation and enforcement costs.

Anti-drug groups say any taxes states might collect from marijuana would fail to compensate for the increased health, drug treatment and public safety costs that legalization would cause due to increased use of the drug.

(Alex Dobuzinskis reported from Los Angeles and Alina Selyukh reported from Washington DC; Editing by Cynthia Johnston)