

**NATIONAL INDIAN HEALTH BOARD
32ND ANNUAL CONSUMER
CONFERENCE**



**SOVEREIGNTY AND
MARIJUANA IN TRIBAL
COMMUNITIES**

September 23, 2015

Will “Yaan Yaan Eesh” Micklin



1ST VP - CENTRAL COUNCIL OF THE TLINGIT AND
HAIDA TRIBES

CEO - EWIIAAPAYP BAND OF KUMEYAA
INDIANS

EXECUTIVE DIRECTOR – CALIFORNIA
ASSOCIATION OF TRIBAL GOVERNMENTS

Controlled Substances Act (CSA)



CONTROLLED SUBSTANCES ACT (CSA) ESTABLISHED A FEDERAL REGULATORY SYSTEM DESIGNED TO COMBAT RECREATIONAL DRUG ABUSE BY MAKING IT UNLAWFUL TO MANUFACTURE, DISTRIBUTE, DISPENSE, OR POSSESS ANY CONTROLLED SUBSTANCE. (21 U.S.C. § 801, ET SEQ.; GONZALES V. OREGON (2006) 546 U.S. 243, 271-273.)

CSA REFLECTS THE FEDERAL GOVERNMENT'S VIEW THAT MARIJUANA IS A DRUG WITH "NO CURRENTLY ACCEPTED MEDICAL USE." (21 U.S.C. § 812(B)(1).

MANUFACTURE, DISTRIBUTION, OR POSSESSION OF MARIJUANA IS A FEDERAL CRIMINAL OFFENSE. (ID. AT §§ 841(A)(1), 844(A).

Federal Law



**“MARIJUANA” IS LISTED AS A CONTROLLED
SUBSTANCE ON SCHEDULE 1 UNDER THE FEDERAL
“CONTROLLED SUBSTANCE ACT” (CSA);
IT IS A VIOLATION OF THE CSA FOR ANY PERSON
TO KNOWINGLY OR INTENTIONALLY -**

- (1) manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or
- (2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance. 21 U.S.C. § 841(a)

Schedule 1 Drugs



21 USC § 812:

(A) THE DRUG OR OTHER SUBSTANCE HAS A HIGH POTENTIAL FOR ABUSE.

(B) THE DRUG OR OTHER SUBSTANCE HAS NO CURRENTLY ACCEPTED MEDICAL USE IN TREATMENT IN THE UNITED STATES.

(C) THERE IS A LACK OF ACCEPTED SAFETY FOR USE OF THE DRUG OR OTHER SUBSTANCE UNDER MEDICAL SUPERVISION.

Sentences

POSSESSION

ANY AMOUNT (FIRST OFFENSE)	MISDEMEANOR	1 YEAR	\$
ANY AMOUNT (SECOND OFFENSE)	MISDEMEANOR	15 DAYS*	\$ 2,500
ANY AMOUNT (SUBSEQUENT OFFENSE)	MISDEMEANOR OR FELONY	90 DAYS* - 3 YEARS	\$ 5,000 YEARS
* MANDATORY MINIMUM SENTENCE			

SALE

LESS THAN 50 KG	FELONY	5 YEARS	\$
50 - 99 KG	FELONY	20 YEARS	\$
100 - 999 KG	FELONY	5 - 40 YEARS	\$
1000 KG OR MORE	FELONY	10 YEARS - LIFE	\$
TO A MINOR OR WITHIN 1000 FT OF A SCHOOL, OR OTHER SPECIFIED AREAS CARRIES A DOUBLE PENALTY.			
GIFT OF SMALL AMOUNT -- SEE POSSESSION			

CULTIVATION

LESS THAN 50 PLANTS	FELONY	5 YEARS	\$
50 - 99 PLANTS	FELONY	20 YEARS	\$
100 - 999 PLANTS	FELONY	5 - 40 YEARS	\$
1000 PLANTS OR MORE	FELONY	10 YEARS - LIFE	\$

PARAPHERNALIA

SALE OF PARAPHERNALIA	FELONY	3 YEARS	\$ 0
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Cannabinoids: CBD and THC



CANNABIS PLANTS PRODUCE CHEMICALS CALLED CANNABINOIDS (CBD)

THERE ARE 85 DIFFERENT CANNABINOIDS
TWO CANNABINOIDS PRODUCED IN GREATEST ABUNDANCE ARE
CANNABIDIOL (CBD) AND Δ_9 -TETRAHYDROCANNABINOL (THC)

ONLY THC IS PSYCHOACTIVE

Industrial Hemp



INDUSTRIAL HEMP IS A DISTINCT VARIETY OF THE CANNABIS SATIVA SPECIES:

- ☐ <.3% THC ☐ NOT PSYCHOACTIVE
- ☐ TALL, SLENDER, FIBROUS

USES: PAPER, TEXTILES, PLASTICS, CONSTRUCTION, HEALTH FOOD, ANIMAL FEED, FUEL, ETC.

2013 FARM BILL, SEC. 7606, LEGITIMACY OF INDUSTRIAL HEMP RESEARCH: DEFINES INDUSTRIAL HEMP (<.3% THC) AND AUTHORIZES INSTITUTIONS OF HIGHER EDUCATION OR STATE DEPARTMENTS OF AGRICULTURE, IN STATES WHERE HEMP IS LEGAL, TO GROW HEMP FOR RESEARCH OR AGRICULTURAL PILOT PROGRAMS.

Marijuana Products



- ☐ CLONES/CLIPPINGS/SEEDS
- ☐ DRIED FLOWER (INCLUDES PRE-ROLLED JOINTS)
- ☐ CONCENTRATES
- ☐ BUBBLE HASH, SHATTER, WAX, OIL, TINCTURES, CAPSULES
- ☐ TOPICALS
- ☐ INFUSED EDIBLES
- ☐ INFUSED LIQUIDS

Incongruity Between Federal and State Law



CONGRESS HAS PROVIDED THAT STATES ARE FREE TO REGULATE IN THE AREA OF CONTROLLED SUBSTANCES, INCLUDING MARIJUANA, PROVIDED THAT STATE LAW DOES NOT POSITIVELY CONFLICT WITH THE CSA. (21 U.S.C. § 903.)

CALIFORNIA DID NOT “LEGALIZE” MEDICAL MARIJUANA, BUT INSTEAD EXERCISED THE STATE’S RESERVED POWERS TO NOT PUNISH CERTAIN MARIJUANA OFFENSES UNDER STATE LAW WHEN A PHYSICIAN HAS RECOMMENDED ITS USE TO TREAT A SERIOUS MEDICAL CONDITION. (SEE CITY OF GARDEN GROVE V. SUPERIOR COURT (KHA) (2007) 157 CAL.APP.4TH 355, 371-373, 381-382.)

FY 14 Congressional Spending Law



PROHIBITS THE DEPARTMENT OF JUSTICE –INCLUDING DOJ’S DRUG ENFORCEMENT ADMINISTRATION –FROM USING FEDERAL FUNDS TO INTERFERE WITH STATES’ IMPLEMENTATION OF THEIR OWN MEDICAL MARIJUANA LAWS:

"SEC. 538. NONE OF THE FUNDS MADE AVAILABLE IN THIS ACT TO THE DEPARTMENT OF JUSTICE MAY BE USED, WITH RESPECT TO THE STATES OF ALABAMA, ALASKA, ARIZONA, CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, FLORIDA, HAWAII, ILLINOIS, IOWA, KENTUCKY, MAINE, MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA, MISSISSIPPI, MISSOURI, MONTANA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NEW MEXICO, OREGON, RHODE ISLAND, SOUTH CAROLINA, TENNESSEE, UTAH, VERMONT, WASHINGTON, AND WISCONSIN, TO PREVENT SUCH STATES FROM IMPLEMENTING THEIR OWN STATE LAWS THAT AUTHORIZE THE USE, DISTRIBUTION, POSSESSION, OR CULTIVATION OF MEDICAL MARIJUANA."

DOJ Memoranda



OGDEN MEMORANDUM OF 2009

COLE MEMORANDA IN 2013

FOLLOW-UP POLICY GUIDANCE IN 2014

**MEMORANDUM ENTITLED “POLICY STATEMENT REGARDING
MARIJUANA ISSUES IN INDIAN COUNTRY”**

**DOJ’S EIGHT LAW ENFORCEMENT “PRIORITIES”
FOR MARIJUANA**

Federal Law



**RECENT CONFUSION SURROUNDING THE OCTOBER 2014
MEMORANDUM ENTITLED “POLICY STATEMENT
REGARDING MARIJUANA ISSUES IN INDIAN COUNTRY”
ISSUED BY U.S. DEPARTMENT OF JUSTICE (DOJ);**

This policy DOES NOT CHANGE federal law;

This policy is not binding “regulations”;

This policy may change with new elected official (2016 presidential election)
and new administrations (confirmation of Loretta Lynch)

DOJ Policy



1. PREVENTING DISTRIBUTION TO MINORS:

- REQUIRE VALID IDENTIFICATION TO PURCHASE MARIJUANA
- REQUIRE CHILD-RESISTANT PACKAGING
- PROHIBIT ADVERTISING AND MARIJUANA PACKAGING THAT TARGETS OR INTENDS TO ATTRACT MINORS
- PLACE DISTANCE RESTRICTIONS ON RETAIL OUTLETS
- ESTABLISH LEGAL CONSEQUENCES FOR TRANSFER OF MARIJUANA TO MINORS AND MINORS IN POSSESSION

DOJ Policy



2. PREVENT REVENUE SALE OF MARIJUANA FROM GOING TO CRIMINAL ENTERPRISES, GANGS, AND CARTELS:

- ESTABLISH STRICT REQUIREMENTS FOR LICENSURE AND CONDUCT THOROUGH BACKGROUND CHECKS
- REQUIRE ALL DISCLOSURE OF ALL OWNERS AND FINANCIAL INTERESTS IN THE BUSINESSES

DOJ Policy



3. PREVENT DIVERSION OF MARIJUANA FROM STATES WHERE IT IS LEGAL TO STATES WHERE IT IS ILLEGAL

- SEED-TO-SALE TRACKING SYSTEM
- REQUIRE THE USE OF TRANSPORTATION MANIFESTS
- SECURITY AND VIDEO SURVEILLANCE

DOJ Policy



4. PREVENT STATE-AUTHORIZED MARIJUANA ACTIVITY FROM BEING USED AS A COVER OR PRETEXT FOR THE TRAFFICKING OF OTHER ILLEGAL DRUGS OR ACTIVITY:

- EVERYTHING THAT ADDRESSES PRIORITY 2 –BACKGROUND CHECKS AND FINANCIAL DISCLOSURES
- PUBLISH TRANSPARENT REPORTS
- COMPLY WITH FEDERAL BANKING REGULATIONS
- SEED-TO-SALE TRACKING

DOJ Policy



5. PREVENT VIOLENCE AND USE OF FIREARMS IN THE CULTIVATION AND DISTRIBUTION OF MARIJUANA:

- AGAIN, BACKGROUND CHECKS AND DISCLOSURES
- PROFESSIONALLY TRAINED, THIRD-PARTY SECURITY, IF ARMED

DOJ Policy



6. PREVENT DRUGGED DRIVING AND THE EXACERBATION OF OTHER ADVERSE PUBLIC HEALTH CONSEQUENCES ASSOCIATED WITH MARIJUANA USE:

- ESTABLISH FAIR AND REASONABLE DUID POLICIES
- PUBLIC EDUCATION CAMPAIGNS
- ENSURE CONSUMER SAFETY
- MONITOR SIGNS AND REACT WITH TARGETED POLICY ADJUSTMENTS

DOJ Policy



7. PREVENT THE GROWING OF MARIJUANA ON PUBLIC LANDS AND CONSIDER THE ENVIRONMENTAL DANGERS POSED:

- ESTABLISH CULTIVATION AND PROCESSING REGULATIONS BASED UPON COMMUNITY, ENVIRONMENTAL, AND WORKPLACE SAFETY
- TREAT MARIJUANA LICENSEES LIKE ANY OTHER BUSINESS
- AMEND LAWS TO REFLECT CURRENT CANNABIS POLICIES

DOJ Policy



8. PREVENT MARIJUANA POSSESSION OR USE ON FEDERAL PROPERTY:

- SITE FACILITY REVIEW AND LICENSURE

Federal Law



THE DOJ POLICY RESTS ON THE:

“EXPECTATION THAT STATES AND LOCAL GOVERNMENTS THAT HAVE ENACTED LAWS AUTHORIZING MARIJUANA-RELATED CONDUCT WILL IMPLEMENT **STRONG AND EFFECTIVE REGULATORY AND ENFORCEMENT SYSTEMS** THAT WILL ADDRESS THE THREAT THAT THOSE STATE LAWS COULD POSE TO PUBLIC SAFETY, PUBLIC HEALTH, AND OTHER LAW ENFORCEMENT INTERESTS. A SYSTEM ADEQUATE TO THAT TASK **MUST NOT ONLY CONTAIN ROBUST CONTROLS AND PROCEDURES ON PAPER, IT MUST ALSO BE EFFECTIVE IN PRACTICE.**”

White House Office of National Drug Control Policy



MARIJUANA

MARIJUANA IS A TOPIC OF SIGNIFICANT PUBLIC DISCOURSE IN THE UNITED STATES, AND ... CONFUSING MESSAGES BEING PRESENTED BY POPULAR CULTURE, MEDIA, **PROponents OF “MEDICAL” MARIJUANA**, AND POLITICAL CAMPAIGNS TO LEGALIZE ALL MARIJUANA USE PERPETUATE THE FALSE NOTION THAT MARIJUANA IS HARMLESS. THIS SIGNIFICANTLY DIMINISHES EFFORTS TO KEEP OUR YOUNG PEOPLE DRUG FREE AND HAMPERS THE STRUGGLE OF THOSE RECOVERING FROM SUBSTANCE USE DISORDERS.

THE ADMINISTRATION STEADFASTLY OPPOSES LEGALIZATION OF MARIJUANA AND OTHER DRUGS BECAUSE LEGALIZATION WOULD INCREASE THE AVAILABILITY AND USE OF ILLICIT DRUGS, AND POSE SIGNIFICANT HEALTH AND SAFETY RISKS TO ALL AMERICANS, PARTICULARLY YOUNG PEOPLE...

(8) preventing marijuana possession or use on federal property



TO AVOID FEDERAL PROSECUTION, TRIBES NEED ENACT STRICT REGULATIONS REGARDING EACH OF THE EIGHT FACTORS DELINEATED IN THE MEMORANDUM.

8TH FACTOR NEEDS CERTAINTY DUE TO TITLE 21 USC SECTION 841(B)(5) [PUB. L. 99-570, SECTION 1003(A)(5) AMENDMENT] PROVIDES SPECIFIC PERIODS OF IMPRISONMENT AND FINES FOR ANYONE VIOLATING SUBSECTION (A) BY “CULTIVATING OR MANUFACTURING [MARIJUANA] ON FEDERAL PROPERTY...”

“Federal Property” in Federal Code



SUBCHAPTER C PART 102-74, NARCOTICS AND OTHER DRUGS, “§102-74.400—EXCEPT IN CASES WHERE THE DRUG IS BEING USED AS PRESCRIBED FOR A PATIENT BY A LICENSED PHYSICIAN, ALL PERSONS ENTERING IN OR ON FEDERAL PROPERTY ARE PROHIBITED FROM—(A) BEING UNDER THE INFLUENCE, USING OR POSSESSING ANY NARCOTIC DRUGS, HALLUCINOGENS, MARIJUANA, BARBITURATES, OR AMPHETAMINES ...

TITLE 20 USC § 7713. DEFINITIONS (5), WHEREIN FEDERAL PROPERTY MEANS:

"(A) ... (II)(I) HELD IN TRUST BY THE UNITED STATES FOR INDIVIDUAL INDIANS OR INDIAN TRIBES; (II) HELD BY INDIVIDUAL INDIANS OR INDIAN TRIBES SUBJECT TO RESTRICTIONS ON ALIENATION IMPOSED BY THE UNITED STATES; (III) CONVEYED AT ANY TIME UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT [43 U.S.C. 1601 ET SEQ.] TO A NATIVE INDIVIDUAL, NATIVE GROUP, OR VILLAGE OR REGIONAL CORPORATION; (IV) PUBLIC LAND OWNED BY THE UNITED STATES THAT IS DESIGNATED FOR THE SOLE USE AND BENEFIT OF INDIVIDUAL INDIANS OR INDIAN TRIBES; OR (V) USED FOR LOW-RENT HOUSING, AS DESCRIBED IN PARAGRAPH (10), THAT IS LOCATED ...

“Federal Property” in Tribal Agreements



IS FEDERAL PROPERTY A DEFINED TERM IN ANY TRIBAL – FEDERAL AGREEMENT?

Missing DOJ Guidelines



**GUIDELINES FOR U.S. DOJ PROSECUTORIAL DISCRETION
FOR TRIBES?**

TRIBAL CONSULTATION WITH US ATTORNEY

**CONFORMANCE TO “ROBUST” STATE MEDICAL MARIJUANA
REGULATORY REGIME**

**IMPORTANT ISSUE APPEARS TO BE RISK OF DIVERSION,
SCALE OF ENTERPRISE (NUMBER OF PLANTS), AND
TRANSPORT [INTERPRETATION OF TRIBAL LAND
BOUNDARIES TO BE EQUIVALENT TO STATE LAND
BOUNDARIES, I.E., TRANSPORT ACROSS STATE BOUNDARY IS
UNLAWFUL]**

Other Provisions of Federal Law in Title 21



“THE POSSESSION, DISTRIBUTION, AND MANUFACTURING OF MARIJUANA, AND AIDING AND ABETTING SUCH OFFENSE, IS A VIOLATION OF THE FEDERAL CONTROLLED SUBSTANCES ACT.” 21 U.S.C. § 841(A)

“IT IS UNLAWFUL TO KNOWINGLY LEASE ANY PLACE FOR THE PURPOSE OF DISTRIBUTING A CONTROLLED SUBSTANCE.” 21 U.S.C. § 856

“PROPERTY INVOLVED IN THE SALE AND DISTRIBUTION OF MARIJUANA MAY BE SUBJECT TO SEIZURE BY, AND FORFEITURE TO, THE FEDERAL GOVERNMENT.” 21 U.S.C. § 881(A)

Bureau of Reclamation



RECLAMATION MANUAL POLICY, TEMPORARY RELEASE, “USE OF RECLAMATION WATER OR FACILITIES FOR ACTIVITIES PROHIBITED BY THE CONTROLLED SUBSTANCES ACT OF 1970,” (MAY 16, 2014) *"THE BUREAU OF RECLAMATION'S OBLIGATION AS A FEDERAL AGENCY TO UPHOLD FEDERAL LAW PROHIBITS IT FROM APPROVING THE USE OF RECLAMATION WATER OR FACILITIES TO FACILITATE ACTIVITIES PROHIBITED BY THE CSA. RECLAMATION EMPLOYEES WHO BECOME AWARE THAT RECLAMATION FACILITIES OR THE WATER IT SUPPLIES ARE BEING USED TO FACILITATE CULTIVATION OF MARIJUANA, MUST REPORT SUCH INFORMATION TO THEIR REGIONAL DIRECTOR, WHO WILL REPORT TO THE DOJ."*

HHS Q&A



1. PLEASE SHARE ANY POLICIES OF HHS THAT MAY AFFECT A TRIBE THAT LEGALIZES MARIJUANA. PLEASE SHARE WHETHER HHS HAS CONSULTED WITH THE DEPARTMENT OF JUSTICE REGARDING ITS ENFORCEMENT PRIORITIES REGARDING MARIJUANA IN INDIAN COUNTRY.

☐ HHS HAS AN IMPORTANT ROLE IN SPECIFIC AREAS RELATED TO MARIJUANA USE – RESEARCH AND SURVEILLANCE, EDUCATION, AND TREATMENT. TYPICALLY, ENFORCEMENT ACTIVITIES RELATED TO SUCH ACTIVITIES FALL UNDER THE PURVIEW OF THE DEPARTMENT OF JUSTICE. HHS HAS NOT FORMALLY CONSULTED WITH DEPARTMENT OF JUSTICE REGARDING ITS ENFORCEMENT PRIORITIES REGARDING MARIJUANA IN INDIAN COUNTRY.

HHS Q&A



2. PLEASE SHARE WHERE HHS OR ANY OF ITS AGENCIES HAVE WITHHELD ANY FUNDING TO STATE GOVERNMENTS BASED ON THEIR LEGALIZATION OF RECREATIONAL OR MEDICAL MARIJUANA.

☐ HHS CURRENTLY IS NOT AWARE OF ANY INSTANCES OF WITHHOLDING FUNDING TO STATE GOVERNMENTS ON THIS BASIS.

HHS Q&A



3. PLEASE SHARE WHETHER HHS IS PREPARED AT THIS TIME TO ENGAGE IN GOVERNMENT-TO-GOVERNMENT CONSULTATIONS WITH INDIVIDUAL TRIBES THAT INTEND TO LEGALIZE MARIJUANA.

☐ TYPICALLY, ENFORCEMENT ACTIVITIES RELATED TO SUCH ACTIVITIES FALL UNDER THE PURVIEW OF THE DEPARTMENT OF JUSTICE.

HHS Q&A



4. WOULD A TRIBE'S HHS PROGRAM FUNDS BE JEOPARDIZED SHOULD THE TRIBE, OR A SUBDIVISION OR SUBSIDIARY OF THE TRIBE, OPERATE A MARIJUANA GROW OR DISPENSARY ENTERPRISE ON ITS TRIBAL LANDS?

☐ FEDERAL FUNDS MAY NOT BE USED FOR THIS PURPOSE. ASSUMING FEDERAL FUNDS ARE NOT USED TO GROW/PURCHASE/DISPENSE MARIJUANA; IT IS UNLIKELY THAT THE FUNDS WOULD BE JEOPARDIZED BUT TRIBAL MARIJUANA ENTERPRISES WOULD BE SUBJECT TO FEDERAL LAW AND DEPARTMENT OF JUSTICE ENFORCEMENT OF THE LAW IN ACCORDANCE WITH DEPARTMENT OF JUSTICE POLICIES AND APPLICABLE LAW.

HHS Q&A



5. WOULD A TRIBE'S HHS PROGRAM FUNDS BE FORFEITED OR AT RISK IN ANY WAY SHOULD THE TRIBE REGULATE A THIRD-PARTY OPERATED MARIJUANA GROW OR DISPENSARY ENTERPRISE ON ITS TRIBAL LANDS?

☐ FEDERAL FUNDS MAY NOT BE USED FOR THIS PURPOSE. ASSUMING FEDERAL FUNDS ARE NOT USED TO GROW/PURCHASE/DISPENSE MARIJUANA, IT IS UNLIKELY THAT THE FUNDS WOULD BE JEOPARDIZED BUT ANY MARIJUANA ENTERPRISES WOULD BE SUBJECT TO FEDERAL LAW AND DEPARTMENT OF JUSTICE ENFORCEMENT OF THE LAW IN ACCORDANCE WITH DEPARTMENT OF JUSTICE POLICIES AND APPLICABLE LAW.

HHS Q&A



6. WOULD A TRIBAL ORGANIZATION / CONSORTIUM HHS PROGRAM FUNDS BE FORFEITED OR AT RISK IN ANY WAY SHOULD A MEMBER TRIBE OF THE ORGANIZATION / CONSORTIUM OPERATE OR REGULATE A MARIJUANA GROW OR DISPENSARY ENTERPRISE ON THE TRIBAL LANDS WHEREUPON THE TRIBAL ORGANIZATION / CONSORTIUM PROGRAMS ARE OPERATED?

☐ FEDERAL FUNDS MAY NOT BE USED FOR THIS PURPOSE. ASSUMING FEDERAL FUNDS ARE NOT USED TO GROW/PURCHASE/DISPENSE MARIJUANA, IT IS UNLIKELY THAT THE FUNDS WOULD BE JEOPARDIZED BUT ANY MARIJUANA ENTERPRISES WOULD BE SUBJECT TO FEDERAL LAW AND DEPARTMENT OF JUSTICE ENFORCEMENT OF THE LAW IN ACCORDANCE WITH DEPARTMENT OF JUSTICE POLICIES AND APPLICABLE LAW.

HHS Q&A



7. HAS HHS OR ANY DIRECTORATE WITHIN HHS ISSUED A POLICY STATEMENT OR GUIDANCE ABOUT IMPLICATIONS OF A TRIBE'S OPERATION OR REGULATION OF A MARIJUANA GROW OR DISPENSARY ENTERPRISE ON TRIBAL LANDS? IF NOT, IS THERE A PLAN TO RELEASE SUCH GUIDANCE?

☐ THERE ARE NO HHS-SPECIFIC POLICIES, GUIDANCE OR PLANS TO DEVELOP GUIDANCE, THAT ADDRESS THE IMPLICATIONS OF TRIBAL MARIJUANA DISPENSATION AND/OR CULTIVATION. TYPICALLY, ENFORCEMENT ACTIVITIES RELATED TO SUCH ACTIVITIES FALL UNDER THE PURVIEW OF THE DEPARTMENT OF JUSTICE. THEREFORE, HHS WILL DEFER TO DEPARTMENT OF JUSTICE GUIDANCE WHEN APPLICABLE TO HHS PROGRAMS.

HHS Q&A



8. IS ANY HHS REGULATION INVOLVED IN THE HUMAN CONSUMPTION OF MARIJUANA PRODUCTS, INCLUDING MEDICINAL, SMOKING, INHALANT OR EDIBLE PRODUCTS? AND IF SO, UNDER WHAT STATUTE AND REGULATIONS?

☐ OUTSIDE THE RESEARCH CONTEXT, THERE ARE NO HHS-ADMINISTERED REGULATIONS PERTAINING TO THE HUMAN CONSUMPTION OF MARIJUANA PRODUCTS.

HHS Q&A



9. DOES “FEDERAL PROPERTY” IN THE CSA REFER TO ANY HHS FUNDED FACILITY OR REAL PROPERTY?

☐ THE DEPARTMENT OF JUSTICE HAS RESPONSIBILITY FOR ADMINISTERING, AND INTERPRETING, 21 USC 841(B)(5), WHICH ASSIGNS PENALTIES TO THE MANUFACTURE OR CULTIVATION OF CONTROLLED SUBSTANCES ON "FEDERAL PROPERTY." THEREFORE, DEPARTMENT OF JUSTICE (OR DOJ'S DRUG ENFORCEMENT ADMINISTRATION), SHOULD CONFIRM THE DEFINITION OF THE PHRASE “FEDERAL PROPERTY” WITHIN THE MEANING OF 21 USC 841(B)(5).

HHS - Indian Health Service



2011 letter from IHS Chief Medical Officer issued “findings” on the medical uses of marijuana.

These “findings” mischaracterized applicable law:

- made a “finding” that under Article 6 of the Constitution, States are violating federal law by legalizing medical marijuana.
- said that health care providers at IHS-funded facilities would not be covered by the Federal Tort Claims Act if they failed to meet the requirements of the Controlled Substances Act. This statement does not accurately reflect the case law on applicability of the FTCA.

HHS Plays a Key Role



HOW A DRUG CAN BE RESCHEDULED:

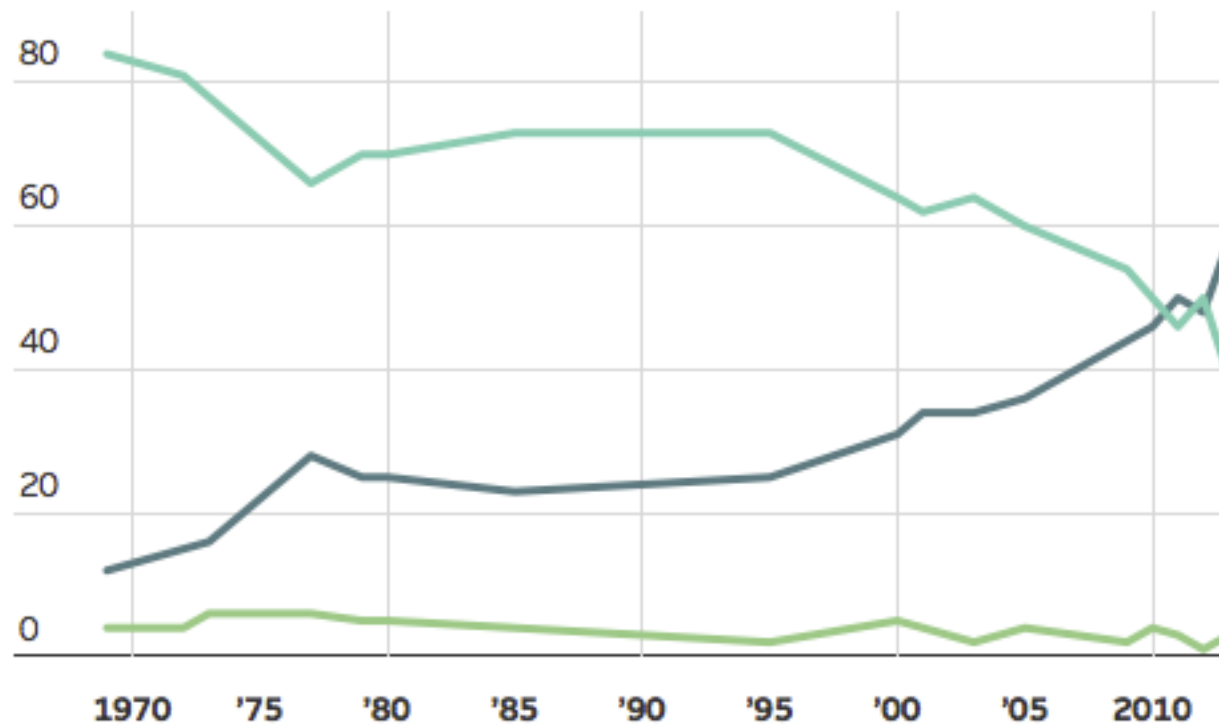
- HHS (FDA) MUST RECOMMEND RESCHEDULING AND PROVIDE A SCIENTIFIC AND MEDICAL EVALUATION OF THE DRUG.
- DEA MUST FIND THAT THE DRUG DOES NOT MEET THE REQUIREMENTS FOR INCLUSION IN ANY SCHEDULE.
- DEA THEN ENGAGES IN RULEMAKING TO REMOVE OR RECLASSIFY THE DRUG FROM ITS SCHEDULE.

PUBLIC PETITION TO HAVE A DRUG RESCHEDULED.

IN 2011, WASHINGTON GOVERNOR CHRIS GREGOIRE AND THE GOVERNOR OF RHODE ISLAND PETITIONED TO HAVE MARIJUANA RESCHEDULED AS A SCHEDULE II DRUG.

"Do you think marijuana should be legal, or not?"

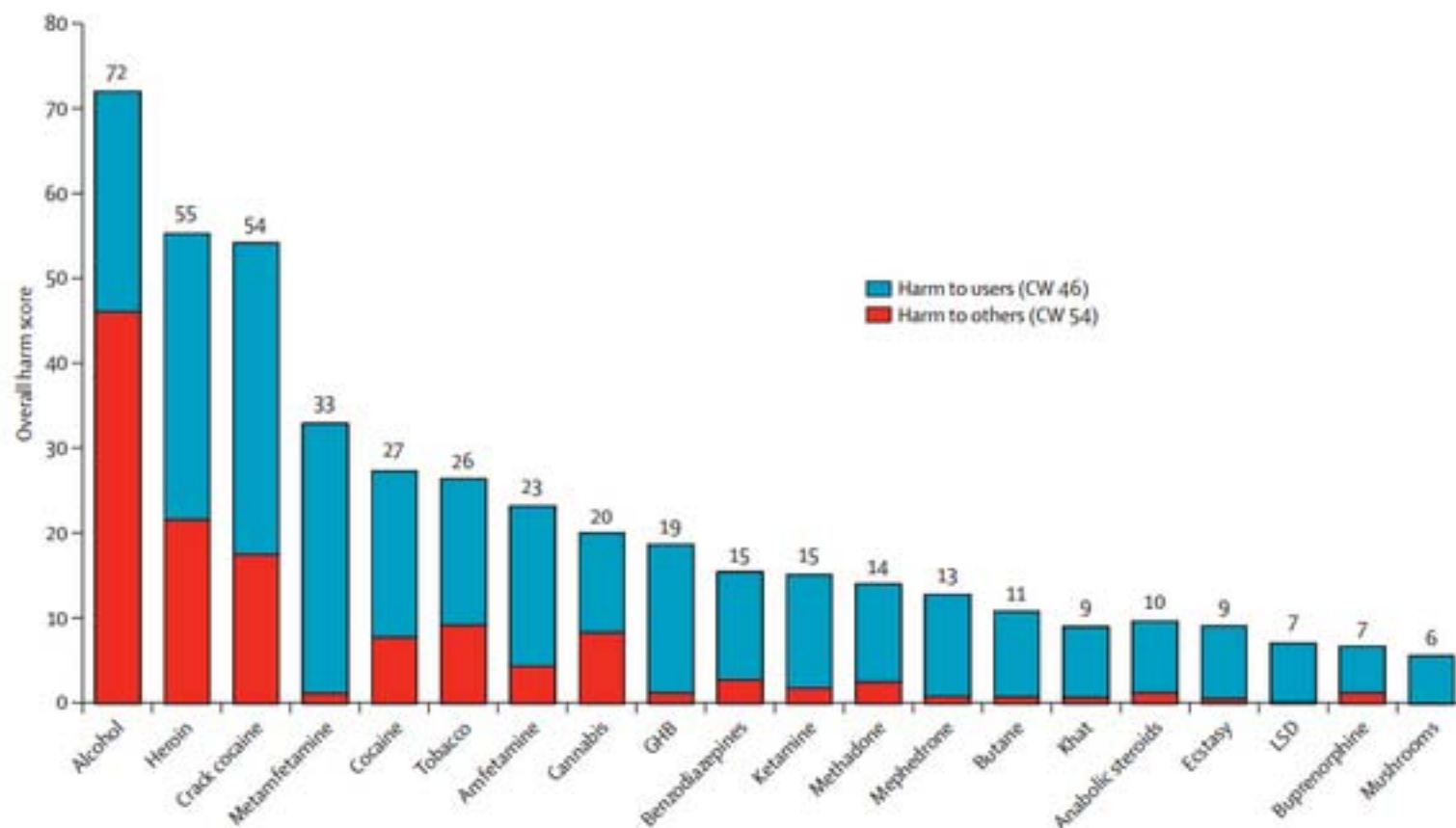
■ Yes, legal ■ No, not legal ■ No opinion

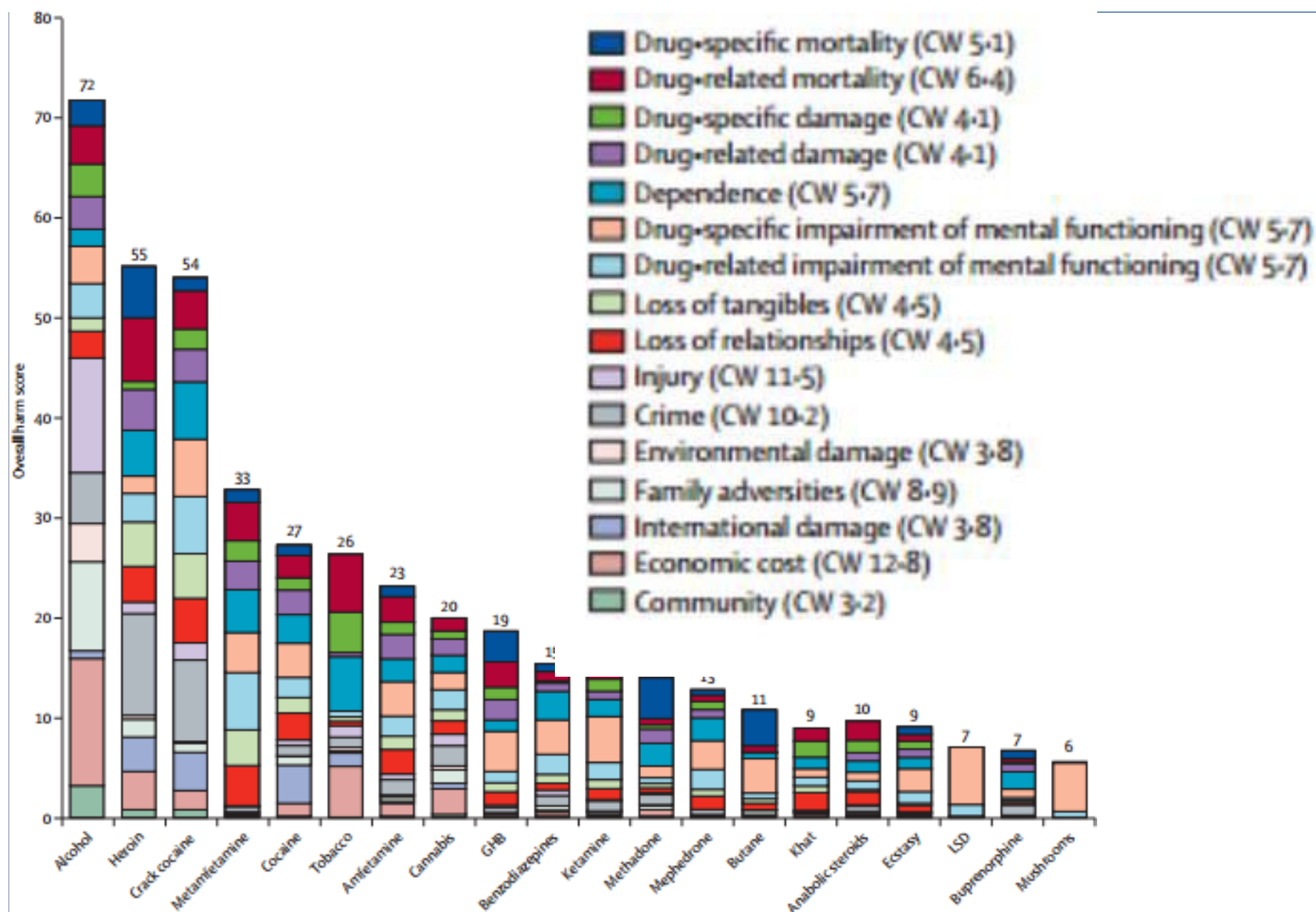


Source: Gallup

Harm to Users / Others

Independent Scientific Cmte on Drugs





OPIOID ABUSE



OPIOID ABUSE IN THE U.S.

DEATHS FROM DRUG OVERDOSE HAVE RISEN STEADILY OVER THE PAST TWO DECADES AND HAVE BECOME THE LEADING CAUSE OF INJURY DEATH IN THE UNITED STATES. PRESCRIPTION DRUGS, ESPECIALLY OPIOID ANALGESICS – A CLASS OF PRESCRIPTION DRUGS SUCH AS HYDROCODONE, OXYCODONE, MORPHINE, AND METHADONE USED TO TREAT BOTH ACUTE AND CHRONIC PAIN – HAVE BEEN INCREASINGLY IMPLICATED IN DRUG OVERDOSE DEATHS OVER THE LAST DECADE. FROM 1999 TO 2013, THE RATE FOR DRUG POISONING DEATHS INVOLVING OPIOID ANALGESICS NEARLY QUADRUPLED. DEATHS RELATED TO HEROIN HAVE ALSO INCREASED SHARPLY SINCE 2010, INCLUDING A 39 PERCENT INCREASE BETWEEN 2012 AND 2013.

OPIOID ABUSE



IN RESPONSE TO THESE RECENT INCREASES IN OPIOID-RELATED MORBIDITY AND MORTALITY, THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) HAS MADE ADDRESSING THE OPIOID ABUSE PROBLEM A HIGH PRIORITY AND IS FOCUSED ON IMPLEMENTING EVIDENCE-BASED APPROACHES TO REDUCE:

- 1) OPIOID OVERDOSES AND OVERDOSE-RELATED MORTALITY AND
- 2) THE PREVALENCE OF OPIOID USE DISORDER.

OPIOID ABUSE



HHS AND SECRETARY BURWELL ARE FOCUSED ON **THREE PRIORITY AREAS** TO REACH THESE GOALS AND TO COMBAT OPIOID ABUSE:

- **OPIOID PRESCRIBING PRACTICES** TO REDUCE OPIOID USE DISORDERS AND OVERDOSE
- THE EXPANDED USE OF **NALOXONE**, USED TO TREAT OPIOID OVERDOSES
- EXPANDED USE OF **MEDICATION-ASSISTED TREATMENT (MAT)** TO REDUCE OPIOID USE DISORDERS AND OVERDOSE

OPIOD ABUSE



“DRUG AND MEDICAL DEVICE COMPANIES HAD SOME KIND OF FINANCIAL RELATIONSHIP—FROM PROVIDING FREE SAMPLES TO PAYING CONSULTING OR SPEAKING FEES TO FINANCING RESEARCH —WITH 94 PERCENT OF ALL PRACTICING PHYSICIANS —

-- AND THAT DRUG COMPANIES SPENT \$7 BILLION A YEAR ON VISITS TO PHYSICIANS BY SALESMEN—

-- WHO PROVIDED THE DOCTORS WITH \$18 BILLION WORTH OF FREE SAMPLES.”

FROM: “EXAMINING THE RELATIONSHIP BETWEEN THE MEDICAL DEVICE INDUSTRY AND PHYSICIANS”

TESTIMONY OF GREGORY E. DEMSKE, ASSISTANT INSPECTOR GENERAL FOR LEGAL AFFAIRS, OFFICE OF INSPECTOR GENERAL, DEPARTMENT OF HEALTH AND HUMAN SERVICES

State Law / PL 280



WHAT ABOUT STATE CRIMINAL LAWS?

BECAUSE CALIFORNIA IS A PL 280 STATE, IT HAS CRIMINAL JURISDICTION IN INDIAN COUNTRY, MEANING ITS CRIMINAL LAWS APPLY TO ALL PERSONS ON TRIBAL LANDS.

State Law / PL 280



IN PL 280 STATES THE SUPREME COURT HAS HELD THAT IF A STATE LAW IS “CRIMINAL PROHIBITORY” IT IS ENFORCEABLE IN INDIAN COUNTRY:

IF THE LAW IS “CIVIL REGULATORY” IT IS NOT ENFORCEABLE IN INDIAN COUNTRY;

DETERMINING THE DIFFERENCE IS CHALLENGING AND CAN RESULT IN DIFFERING RULINGS DEPENDING ON WHAT PL 280 STATE A TRIBE IS LOCATED IN.

State Law / PL 280



“CRIMINAL PROHIBITORY”---INTENT OF THE LAW IS TO PROHIBIT. SHORTHAND TEST, THE CONDUCT AT ISSUE VIOLATES PUBLIC POLICY.

“CIVIL REGULATORY”—LAW PERMITS THE CONDUCT AT ISSUE BUT PLACES LIMITATIONS OR REQUIREMENTS ON THE PERSON DOING THE CONDUCT.

State Law / PL 280



APPLY THE “SHORT HAND PUBLIC POLICY TEST”, WHICH IS THE CONDUCT WILL BE CRIMINAL IF IT VIOLATES “PUBLIC CRIMINAL POLICY”. LOOK TO:

- THE EXTENT THE CONDUCT DIRECTLY THREATENS PHYSICAL HARM TO PERSONS OR PROPERTY AND OR INVADES THE RIGHTS OF OTHERS;
- TO THE EXTENT THE LAW ALLOWS FOR EXCEPTIONS AND EXEMPTIONS;
- THE BLAMEWORTHINESS OF THE ACTOR;
- THE NATURE AND SEVERITY OF THE POTENTIAL PENALTIES FOR A VIOLATION OF THE LAW.

State Law / PL 280



BEYOND THE SCOPE OF THIS POWER POINT AND WOULD MOST LIKELY BE AN ISSUE A COURT WOULD HAVE TO DETERMINE:

- IF DETERMINED “CIVIL REGULATORY” MARIJUANA LAWS, WOULD NOT BE APPLICABLE ON THE RESERVATION;
- BUT IF THE TRIBE’S MARIJUANA OPERATION INVOLVES OFF-RESERVATION ACTIVITIES, STATE MARIJUANA LAWS WOULD BE ENFORCEABLE AGAINST THOSE TRIBAL PLAYERS INVOLVED.

Federal Prosecutions



THE SUPREME COURT AND 9TH CIRCUIT HAS FOUND THAT CALIFORNIA'S MEDICAL MARIJUANA LAW IS NOT A DEFENSE IN VIOLATION OF FEDERAL LAW:

In *U.S. v. Oakland Cannabis Buyers Cooperative*, 532 U.S. 483 (2001) the Court upheld the shutting down of defendant and 5 other cannabis clubs finding that even though the defendant was in compliance with California's medical marijuana laws it was still guilty of violating the federal CSA and medical necessity is no defense.

Federal Prosecutions



In Gonzales v. Raich, 545 U.S. 1 (2005) the Court found the CSA prohibits the private possession and cultivation of marijuana even by individual patients;

In Raich v. Gonzales, 500 F. 3d 850 (9th Cir. 2007) (on remand from the Supreme Court) the Court found patients have no constitutional right to use marijuana even if their life depends on it.

Banking



MAJOR BANKING INSTITUTIONS ARE RELUCTANT TO SERVE THOSE ENGAGED IN THE MARIJUANA INDUSTRY BECAUSE OF THE CSA AND POSSIBLE VIOLATIONS OF OTHER FEDERAL LAWS SUCH AS THE “MONETARY TRANSACTIONS FROM SPECIFIED UNLAWFUL ACTIVITY”

**OPTIONS ARE BANKING AT NON-FDIC-INSURED BANKS OR LOCAL CREDIT UNIONS; OR
OPERATING AS A “CASH BUSINESS”, WHICH CAN CAUSE SCRUTINY BECAUSE OF LARGE CASH TRANSACTIONS.**

Tribal Considerations



ALL ASPECTS OF DEVELOPMENT SHOULD BE CONSIDERED:

- Risk of federal prosecution;
- Risk of state prosecution;
- Banking needs;
- Law enforcement or security needs;
- State taxation;
- Federal funding;
- What tribal laws and regulations will be needed;
- Impact to the tribal community;
- Impacts to the tribal environment.

Tribal Considerations



**TRIBES MUST BE CAUTIOUS;
CONDUCT THOROUGH “DUE DILIGENCE” INCLUDING:**

- Financial investors
- Banking services
- How will the tribe make “profit” from this venture?

**CONSULT WITH U.S. ATTORNEY AND LOCAL LAW
ENFORCEMENT;**

**WEIGH ALL LEGAL, COMMUNITY AND ENVIRONMENTAL
IMPACTS**

Taxation Challenge



**INTERNAL REVENUE CODE § 280E PUNITIVELY DISALLOWS
ORDINARY AND NECESSARY BUSINESS EXPENSES
RELATED TO THE SALE OF CANNABIS.**

I.R.C. CODE § 280E:

“NO DEDUCTION ... SHALL BE ALLOWED FOR ANY AMOUNT PAID
... IN CARRYING ON ANY TRADE OR BUSINESS IF SUCH BUSINESS
... CONSISTS OF TRAFFICKING ON CONTROLLED SUBSTANCES ...”

Effect of 280E



NON-CANNABIS RETAIL BUSINESS

GROSS SALES:	\$1,000,000.00
COST OF GOODS SOLD:	<u>650,000.00</u>
NET INCOME:	350,000.00
EXPENSES:	<u>200,000.00</u>
NET PROFIT:	\$150,000.00

CANNABIS DISPENSARY

UNDER 280E THE EXPENSES ARE DISALLOWED,
RESULTING IN NET PROFIT OF \$350,000.00.

Effect of 280E



CANNABIS RETAIL BUSINESS

GROSS SALES:	\$1,000,000.00
COST OF GOODS SOLD:	<u>650,000.00</u>
NET INCOME:	350,000.00
EXPENSES:	<u>0.00</u>
NET PROFIT:	\$350,000.00

CANNABIS DISPENSARY

UNDER 280E THE EXPENSES ARE DISALLOWED,
RESULTING IN NET PROFIT OF \$350,000.00.

Taxation



WASHINGTON ORIGINALLY LEVIED TAXES AT EVERY STAGE OF CANNABIS PRODUCTION, DISTRIBUTION AND SALE. THE STATE COLLECTED A 25% EXCISE TAX AT THREE TRANSFER POINTS: WHEN PRODUCERS SELL TO PROCESSORS, WHEN PROCESSORS SELL TO RETAILERS AND WHEN RETAILERS SELL TO END CONSUMERS—THOUGH PRODUCERS WHO MERGED WITH OR BECAME PROCESSORS COULD AVOID ONE LEVEL OF TAX, SO MOST DID.

.

Taxation



THE STATE IS MOVING AWAY FROM THAT MODEL TO ONE THAT SIMPLY TAXES CANNABIS AT THE RETAIL POINT OF SALE.

BUSINESS OWNERS IN THE INDUSTRY SAY THE OLD TAX STRUCTURE INHIBITED THEIR ABILITY TO DO BUSINESS AND DROVE UP PRICES. PART OF THIS HAS TO DO WITH FEDERAL RULES. AS LONG AS CANNABIS IS ILLEGAL AT THE FEDERAL LEVEL, ANYONE INVOLVED IN CULTIVATION WOULD BE UNABLE TO DEDUCT NORMAL BUSINESS EXPENSES ON FEDERAL TAX RETURNS (INTERNAL REVENUE CODE SECTION 280E). WASHINGTON'S REPEALED TAX ON PRODUCERS WAS ARGUABLY NOT IMPOSED ON PRODUCTION, BUT RATHER ON A PRODUCER'S ACT OF SELLING. SO A PRODUCER COULD NOT DEDUCT IT. THE STATE IS MOVING TO A SYSTEM THAT WOULD CHARGE A ONE-TIME TAX OF 37% ON RETAIL SALES OF BOTH MEDICAL AND NON-MEDICAL CANNABIS (THOUGH MEDICAL CANNABIS IS EXEMPT FROM WASHINGTON'S STANDARD 6.5% RETAIL SALES TAX). BY SHIFTING TO A TAX AT THE RETAIL LEVEL THAT THE CONSUMER PAYS, WASHINGTON CLEARLY AVOIDS THIS FEDERAL TAX PROBLEM.

Taxation



COLORADO, WHICH HAD A MORE CLOSELY REGULATED MEDICAL CANNABIS SYSTEM BEFORE LEGALIZING RECREATIONAL USE, IS TRYING TO MOVE FORWARD WITH A TWO-TIERED APPROACH THAT WOULD ALLOW RECREATIONAL AND MEDICAL MARKETS TO EXIST SIDE-BY-SIDE UNDER SLIGHTLY DIFFERENT RULES AND REGULATIONS. COLORADO ORIGINALLY ENACTED A 15-PERCENT TAX ON PRODUCTION, BUT CONVERTED THAT PERCENTAGE TO A WEIGHT-BASED TAX, AND COLLECTS DIFFERENT PER-POUND PRODUCTION TAXES FOR THE MORE VALUABLE CANNABIS FLOWERS (GENERALLY USED FOR SMOKING) AND LESS VALUABLE CANNABIS TRIM (LEAVES AND OTHER TRIMMINGS THAT ARE PROCESSED INTO OTHER PRODUCTS.)

OREGON IS CURRENTLY DEBATING A TAX RATE AND STRUCTURE FOR ITS MARIJUANA MARKET. THE OREGON LEGISLATURE IS CONSIDERING IMPOSING A 17 PERCENT STATE TAX ON RETAIL SALES. CITIES AND COUNTIES WOULD BE ABLE TO LEVY AN ADDITIONAL 3 PERCENT TAX IF LOCAL VOTERS APPROVE.

Pricing



IN COLORADO, GOV. JOHN HICKENLOOPER RECENTLY SIGNED A MEASURE THAT WILL LOWER THAT STATE'S RETAIL MARIJUANA TAX, WITH THE CUT DELAYED UNTIL 2017 TO AVOID SHORT-TERM BUDGET PROBLEMS. THE TAX RATE WILL GO FROM 10% TO 8%. PROPONENTS OF THE MOVE BELIEVE IT WILL LOWER THE PRICE OF CANNABIS, WHICH WILL HELP THE LEGAL CANNABIS MARKET COMPETE WITH THE ILLICIT MARKET.

OREGON/WASHINGTON/COLORADO COMPARISON

	OREGON	WASHINGTON	COLORADO
Tax Rate	\$35 per ounce of marijuana flower, \$10 per ounce for leaves, \$5 per immature plant, paid by the producer. State has exclusive right to tax.	37% marijuana excise tax collected exclusively at retail level—charged to customer.	10% special sales tax paid by consumer on retail marijuana/products. 15% wholesale excise tax for marijuana based on average market price of product.
Retail and Wholesale	Licensed entities may sell at both wholesale and retail levels.	"Tiered structure" prohibits licensed entities from selling at both wholesale and retail levels.	For initial rollout, retailers were required to produce 70% of their own product. (Provision expired 10/1/14.)
Home Cultivation	4 plants.	Prohibited.	6 plants per person, with 3 being mature plants. 12 plants maximum per residence.
Drugged Driving	Oregon Liquor Control Commission is required to report to Legislature about driving under influence of marijuana. Current law prohibits driving under influence of any controlled substance, including marijuana.	Per se drugged driving limit: drivers with THC levels greater than 5ng/mL of blood are guilty of marijuana DUI.	Marijuana impairment can be legally inferred at THC levels greater than 5ng/mL of blood, but defendant can rebut presumption of impairment.
Local Control	The measure preempts any local ordinances. Local governments may adopt time, place and manner regulations, but may prohibit recreational marijuana businesses only via general election.	Washington AG has declared that local governments are not pre-empted from adopting ordinances that prohibit recreational marijuana businesses	Local governments may prohibit marijuana businesses.
Number of Licenses	Measure 91 does not limit the number of licenses that may be issued.	Retail licenses capped at 334 for the state.	No limit on total number of licenses.
Medical Marijuana	Measure 91 does not impact the Oregon Medical Marijuana Act but does distinguish medical marijuana as applying to patients with qualifying medical conditions.	State recently combined medical and recreational into one recreational system. Patients will now use "medically endorsed" recreational cannabis stores under new system.	For initial rollout, only licensed medical dispensaries were allowed to apply for retail licenses. (Provision expired 10/1/14.)

Blue Ribbon Commission on Marijuana Policy



**PATHWAYS REPORT: POLICY OPTIONS FOR REGULATING
MARIJUANA IN CALIFORNIA**

**THE PATHWAYS REPORT, RELEASED ON JULY 15, 2015,
PROVIDES THE BROAD RECOMMENDATIONS OF THE BLUE
RIBBON COMMISSION FOR MARIJUANA POLICY.**

WWW.SAFEANDSMARTPOLICY.ORG/REPORTS/

Questions



- 1. THE DOJ POLICY DOES NOT LEGALIZE CANNABIS USE OR SALE—IT USES PROSECUTORIAL DISCRETION TO CREATE A POLICY OF TOLERANCE. DOES THE DOJ POLICY STATEMENT MARK A PERMANENT SHIFT IN POLICY THAT YOU CAN RELY ON?**
- 2. IS THERE A RISK OF THAT POLICY CHANGING WITH A PRESIDENTIAL OR CONGRESSIONAL CHANGE?**
- 3. IS YOUR STATE A PUBLIC LAW 280 STATE? HOW DOES PUBLIC LAW 280 AFFECT THE LEGALITY OF THE BUSINESS?**
- 4. IF THE TRIBAL GOVERNMENT SELLS THE CANNABIS IN AN EDIBLE FORM OR IN OTHER PACKAGED FORMS, ARE THERE OTHER FEDERAL LAWS THAT APPLY?**

Questions



- 5. IF YOUR BUSINESS IS ENFORCED AGAINST, ARE YOUR ASSETS SAFE? HOW CAN YOU PROTECT YOUR ASSETS FROM FORFEITURE PROCEEDINGS?**
- 6. IF THIS DOJ INDUSTRY TOLERANCE IS DEEMED ILLEGAL, ARE THE CONTRACTS WITH VENDORS, CONSULTANTS, AND OTHERS IN THE CANNABIS BUSINESS MATTERS ENFORCEABLE?**
- 7. IS THE TRIBAL GOVERNMENT WILLING TO AGREE TO LIMITED WAIVERS OF SOVEREIGN IMMUNITY IN YOUR CONTRACTS?**

Questions



- 8. MANY TRIBAL GOVERNMENTS TAKE STEPS TO PROTECT THE YOUTH FROM DRUG PARAPHERNALIA OR REFERENCES IN THE COMMUNITY. WILL THE CANNABIS BUSINESS CONFUSE YOUR MESSAGE?**
- 9. WILL YOU ALLOW A CANNABIS BUSINESS ADVERTISING LIKE SHIRTS, PENS AND OTHER THINGS THAT YOUTH CAN WEAR OR TAKE TO SCHOOL? OR WHAT WILL YOUR PUBLIC SERVICE CAMPAIGN LOOK LIKE FOR TRIBAL YOUTH?**
- 10. HOW WILL YOU CONDUCT TRIBAL DRUG TESTING OF EMPLOYEES IF YOU HAVE A TRIBAL CODE THAT REGULATES CANNABIS USE IN THE TRIBAL GOVERNMENT'S JURISDICTION?**
- 11. WHAT OTHER EMPLOYEE POLICIES WILL HAVE TO CHANGE IN RESPONSE TO THESE TRIBAL LAWS?**

Questions



- 12. WILL EMPLOYEES WORKING IN THE CANNABIS BUSINESS OR USING THE BUSINESS BE ELIGIBLE TO DRIVE FEDERAL GENERAL SERVICES ADMINISTRATION (GSA) FLEET VEHICLES?**
- 13. DO YOU HAVE A TRIBAL CONTROLLED SUBSTANCES CODE, AND WHAT IS REQUIRED TO ENSURE YOUR TRIBAL GOVERNMENT IS BEING MINDFUL OF THE DEPARTMENT OF JUSTICE (DOJ) MEMORANDUM?**
- 14. HOW WILL THIS AFFECT TRIBAL ELDERS, TRIBAL YOUTH, AND OTHER CITIZENS?**
- 15. WHAT INTERNAL CONTROLS WILL YOU HAVE IN YOUR BUSINESSES TO CONTROL THE HANDLING OF CANNABIS PRODUCTS AND CASH?**
- 16. WHAT SPECIFIC STEPS DO YOU NEED TO TAKE TO REGULATE AND THEN OPERATE/ALLOW CANNABIS BUSINESS ON THE TRIBAL LAND?**

Questions



- 17. ARE YOU INTERESTED IN MARKETING CANNABIS? GROWING CANNABIS? OR BOTH? THESE ACTIONS ARE VERY DIFFERENT ENDEAVORS AND ARE TREATED DIFFERENTLY BY THE DOJ POLICY. THE TRIBAL GOVERNMENT HAS A RESPONSIBILITY FOR PUBLIC SAFETY.**
- 18. HOW WILL YOU ENSURE SAFE GROWS AND THE SAFETY OF YOUR FIREFIGHTERS, OR FIRE DANCERS?**
- 19. WHAT IS YOUR SECURITY PLAN FOR THE BUSINESS, ITS FACILITIES AND OPERATIONS AND THE EMPLOYEES?**
- 20. WILL YOU CREATE A “CANNABIS CARD” OR REGISTRATION PROCESS TO BE ABLE TO TRACK PRODUCT FLOW AND DESTINATION?**
- 21. IF THIS IS A CASH BUSINESS, HOW WILL CASH BE HANDLED? WILL YOU ALLOW ARMED GUARDS ON TRIBAL LAND?**

Questions



- 22. NEIGHBORS AND OTHERS WHO HAVE OPPOSED GAMING OR ECONOMIC VENTURES MAY OPPOSE CANNABIS DEVELOPMENT. WHO ARE YOUR LOCAL ADVERSARIES AND HOW WILL THEY COMPLICATE YOUR BUSINESS? WILL THEY PURSUE THE FEDERAL, COUNTY OR STATE GOVERNMENT TO REGULATE YOU?**
- 23. WILL THIS AFFECT YOUR RELATIONSHIP ON CAPITOL HILL AND WITH CONGRESS ON ANY FUTURE APPROPRIATIONS?**
- 24. WILL THIS AFFECT OTHER FEDERAL GRANTS OR PROGRAMS THAT YOU ARE OPERATING WHICH HAVE DRUG TESTING OR OTHER BEHAVIORAL REQUIREMENTS?**
- 25. HOW WILL YOU SCREEN THOSE WHO WANT TO DO BUSINESS WITH THE TRIBAL GOVERNMENT?**
- 26. WHAT PROCESSES ARE YOU GOING TO USE TO ENSURE THE CONTRACTING IS DONE CONSISTENT WITH TRIBAL LAW AND WITH TRIBAL TRANSPARENCY (I.E. FOLLOWING REQUEST FOR PROPOSALS, NATIVE PREFERENCE, ETC.)?**

Questions



- 27. DOES A CANNABIS BUSINESS REQUIRE SECRETARIAL APPROVAL THROUGH THE DEPARTMENT OF INTERIOR FOR LAND USE OR BUSINESS AGREEMENTS?**
- 28. ARE ANY OF THE FINANCING OR CANNABIS BUSINESS AGREEMENTS CONSIDERED MANAGEMENT CONTRACTS UNDER THE NIGA?**
- 29. IS THERE A REASON TO COMPACT WITH THE STATE TO SHARE IN THE TAX REVENUES TO ENSURE A “SAFE HARBOR”?**
- 30. WILL YOU SELL PRODUCTS AT A LOWER PRICE BECAUSE OF LOWER TAXATION WITHIN THE TRIBAL GOVERNMENTS’ JURISDICTION LIKE IN TOBACCO SALES?**
- 31. WILL YOU USE THE TAX REVENUE FOR A SPECIFIC HEALTH COMMUNITY NEED TO OFFSET SOCIAL IMPACTS?**
- 32. IS THIS A POLITICAL ISSUE FOR TRIBAL LEADERSHIP THAT COULD DIVIDE THE TRIBAL CITIZENS OR LEAD TO POLITICAL INSTABILITY?**

Questions



- 33. THERE MAY BE LARGE AMOUNTS OF CASH THAT THE TRIBAL GOVERNMENT CANNOT DEPOSIT INTO A BANK BECAUSE OF CURRENT BANKING REGULATIONS. WHERE WILL YOU KEEP THE MONEY? WILL YOU USE ARMORED CARS? HOW WILL YOU HANDLE CASH AND PRODUCT TRANSPORTATION?**
- 34. CAN THE CASH RECEIVED FROM THE REMITTANCE OF TAXES BE HANDLED DIFFERENTLY FROM THE BUSINESS PROFITS RELATIVE TO BANKING DEPOSITS?**
- 35. THE TRIBAL GOVERNMENT MAY NEED TO CREATE PHYSICAL BARRIERS, LIKE BULLETPROOF GLASS, AT THE POINT OF SALE OR PLACE WHERE TAXES ARE REMITTED IN CASH. WHAT TYPE OF SECURITY WILL BE NECESSARY AT THE SITE TO PROTECT TRIBAL EMPLOYEES?**
- 36. GIVEN THE CASH DEPENDENCY, THE TRIBAL GOVERNMENT MAY BE UNDER INCREASED SCRUTINY BY THE IRS AND OTHER INVESTIGATIVE ENTITIES IN THE FEDERAL GOVERNMENT. DO YOU WANT TO INVITE THIS INCREASED SECURITY? HOW WILL YOU PREPARE FOR SUCH POTENTIAL AUDITING?**

Questions



- 37. BANKING INSTITUTIONS HAVE FEDERAL RESTRICTIONS ON DEPOSITS FROM “ILLEGAL” BUSINESSES. WHO WILL YOU BANK WITH NOW AND WILL THEY ACCEPT YOUR DEPOSITS?**
- 38. THE TRIBAL GOVERNMENT MAY HAVE ISSUES WITH THEIR 401(K) PROVIDER, INSURANCE CARRIER, AND OTHER BENEFITS PROVIDERS. WILL THESE AFFECT YOUR INSURANCE CARRIER AND COVERAGE RATES?**
- 39. THIS IS A NEW INDUSTRY—ARE THE OTHER CONSULTANTS, DISPENSARIES, AND OTHERS INTERESTING IN DOING BUSINESS WITH THE TRIBAL GOVERNMENT ETHICAL, TRUSTWORTHY AND ESTABLISHED?**
- 40. HISTORY HAS SHOWN US THAT NEW BUSINESS SUCH AS GAMING CAN BE PROFITABLE FOR MANY TRIBAL GOVERNMENTS, BUT THE RISK MUST BE WEIGHED. THIS INDUSTRY MUST BE APPROACHED IN A SIMILAR WAY – WITH OPEN DIALOGUE, SOLID GUIDANCE, AND WISDOM. WHO WILL WORK WITH YOU THROUGH THIS PROCESS?**

High Intensity Drug Trafficking Area (HIDTA) Program Data



CALIFORNIA PRODUCES MORE MARIJUANA THAN MEXICO

*CALIFORNIA SEIZED MORE MARIJUANA THAN WAS SEIZED
AT THE U.S. – MEXICO BORDER CALIFORNIA'S LAW*

*ENFORCEMENT ERADICATED MORE MARIJUANA THAN WAS
PRODUCED IN CANADA*

*CALIFORNIA MAY SUPPLY 3/4TH OF ALL THE MARIJUANA
FOR US CONSUMERS*

Production Estimates



THE U.S. 2009 PRODUCTION OF MARIJUANA WAS 69,291 METRIC TONS (MT)IX WHILE MEXICO ONLY PRODUCED 29,025 MT-METRIC TONS.

CALIFORNIA PRODUCED MORE OUTDOOR GROWN MARIJUANA IN 2009 THAN MEXICO: (METHOD 1-SEIZURE BASED) MEXICO'S 29,025 MT PRODUCTION WAS ECLIPSED BY CALIFORNIA'S CANNABIS OUTPUT OF 49,105 METRIC TONS IN 2009.

THE CALIFORNIA ACREAGE UNDER CULTIVATION IS 191,993 ACRES (121 SQUARE MILES) HOSTS 124,315,200 MARIJUANA PLANTS, WHICH AMOUNTS TO AN ANNUAL YIELD BETWEEN 124,315 MT AND 1,155.042 MT BEFORE PROCESSING.

CA Supplies the Nation



MARIJUANA SMOKERS PREFER THE FLOWERING SENSIMILLA BUDS OF THE FEMALE CANNABIS PLANT. THIS IS THE ONLY PRODUCT OF THE CANNABIS PLANT THAT THE DTOS IN CALIFORNIA PRODUCE.

AVERAGE WEIGHT OF ONE POUND OF USEABLE MARIJUANA PER PLANT.

CALIFORNIA PRODUCES 124,315,200 POUNDS OF USEABLE MARIJUANA, OR 56,379 METRIC TONS OF SMOKING MARIJUANA,

Demand



PAST YEAR # OF USERS TOTAL IN US: 25,768,000

CASUAL USERS (45%): 4X/YR, .6G/YR, 11.6 M

REGULAR USERS (41%): 100X/YR, 15G/YR, 10.6M

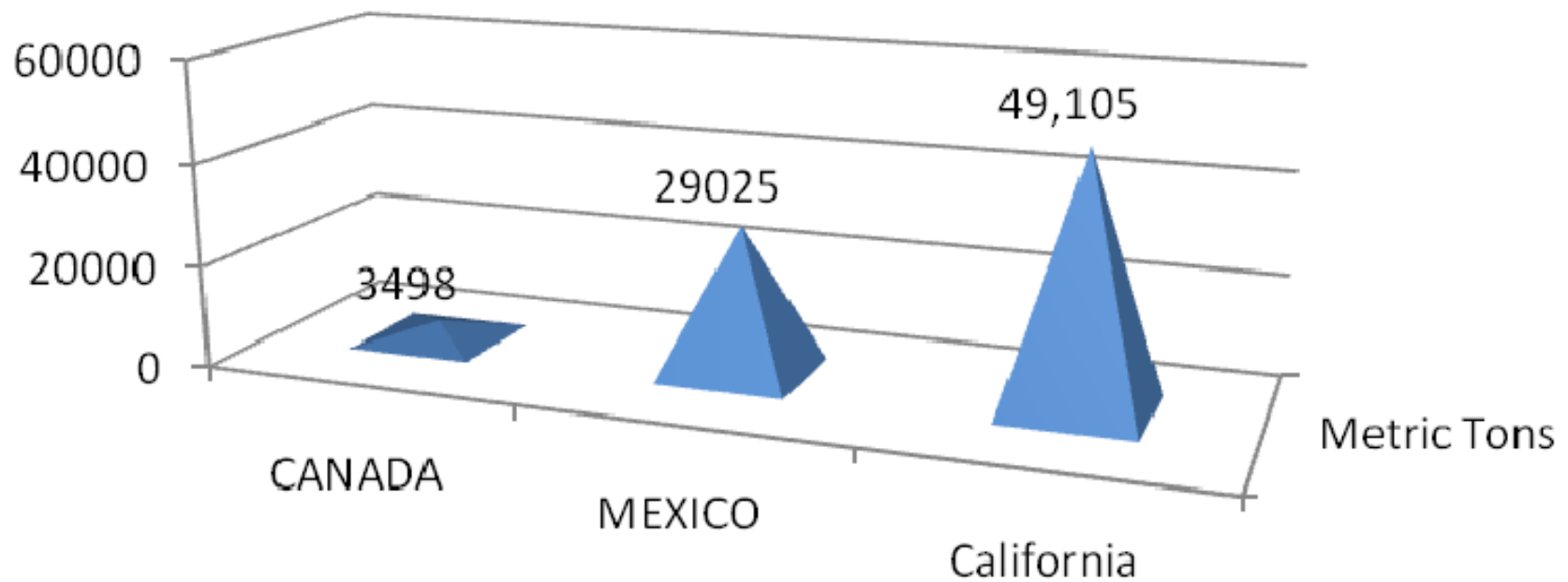
DAILY USERS (9%): 4 JOINTS/DAY, 320G/YR, 2.3M

CHRONIC USERS (4%): 10 JOINTS/DAY, 1,825G/YR, 1M

ANNUAL US DEMAND: 55,429 MT

CA NET PRODUCTION: 43,965 MT

California Marijuana Production Compared to Mexico and Canada- 2009



Funding/Expanding Operations



HIGH COST OF MONEY.

- IN WASHINGTON STATE GROWERS REPORTED AN AVERAGE EFFECTIVE ANNUAL INTEREST RATE OF 32%, A SIGNIFICANT RISK PREMIUM.

LACK OF ACCESS TO FORMAL BANKING SERVICES.

ONGOING RISK OF FEDERAL ENFORCEMENT (WHICH IS REFLECTED IN THE INTEREST RISK PREMIUM).

COSTS OF EXPANDING OPERATIONS ARE HEAVILY FRONT-LOADED.



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May 15, 2015

Another Bank Pulling Back From Marijuana Industry

Tags: [banking issues in mmj](#), [Nevada marijuana](#)

By John Schroyer

There's more bad news on the banking front for cannabis companies.

First Security Bank of Nevada, which [began working with the nascent medical marijuana industry](#) in the state last year, has decided to reverse course because of compliance issues, its chairman told *Marijuana Business Daily* Friday morning.

"The board has decided to (essentially) exit the marijuana industry," said Jason Awad, the chairman of the board of First Security. "We have attempted, at a huge cost of time, to implement a robust compliance program... We found out that the compliance issue is so costly that it's going to be prohibitive."

The move comes at perhaps the worst possible time: Licensed cannabis dispensaries in Nevada are just now gearing up to open, possibly in the coming weeks. This development could delay many of these businesses and present new hurdles for the state's emerging MMJ industry.

Without bank accounts, many businesses will likely have to store their revenues in cash, which has proven to be [an ongoing problem across the country](#) for those in the industry.

Table V.1: Indoor Cannabis Production: Capital Cost

	Wage	Markup	1,500 sf Facility		10,000 sf Facility		
			Hours	Initial Value of Capital	Hours	Initial Value of Capital	
Construction							
Labor							
Design	\$27.64	200%	12.00	\$663	80.00	\$4,422	
General contracting	\$53.77	200%	77.65	\$8,350	517.65	\$55,668	
Electrician	\$29.59	200%	70.00	\$4,143	150.00	\$8,877	
Plumber	\$28.71	200%	60.00	\$3,445	400.00	\$22,968	
Skilled carpenter	\$23.32	200%	50.00	\$2,332	350.00	\$16,324	
HVAC professional	\$25.74	200%	50.00	\$2,574	80.00	\$4,118	
Security system installer	\$23.14	200%	5.00	\$231	40.00	\$1,851	
Permitting				\$823		\$2,672	
Subtotal construction				\$22,562		\$116,901	
Equipment							
Cultivation				\$12,741		\$84,939	
Environmental				\$26,214		\$174,760	
Lighting				\$32,935		\$219,567	
Nutrient delivery				\$2,611		\$17,405	
Finishing				\$942		\$6,281	
Subtotal equipment				\$75,443		\$502,952	
Genetic Stock							
Plants and rooted clones				\$4,500		\$30,000	
Total Initial Value of Capital				\$102,505	\$649,853		
Startup cost per sf				\$68.34	\$64.99		

Table V.2: Indoor Cannabis Production: Long Run and Short Run Variable Costs, per annum

			1,500 sf Facility		10,000 sf Facility	
	Wage	Markup	Hours	Economic Cost	Hours	Economic Cost
Long Run Variable Costs						
Labor						
Management	\$41.79	130%	223	\$12,107	1,486	\$80,714
Janitorial	\$13.12	130%	54	\$914	357	\$6,091
Rent-related Cost						
Rent				\$8,280		\$55,200
Last month rent + security deposit (opportunity cost)				\$138		\$920
Insurance				\$494		\$3,456
Subtotal LRVC				\$21,933		\$146,382
LRVC per sf				\$14.62		\$14.64
Short Run Variable Costs						
Labor						
General agricultural worker	\$10.60	130%	223		1,486	\$20,473
Trimming	\$10.60	130%	2,360	\$32,521	15,733	\$216,805
Non-labor inputs						
Electricity				\$28,553		\$190,355
Water				\$480		\$3,200
Soil				\$8,303		\$55,353
CO ₂				\$2,631		\$17,540
Nutrients				\$5,090		\$33,933
Pesticide				\$2,400		\$16,000
Subtotal SRVC				\$83,049		\$553,660
SRVC per sf				\$55.37		\$55.37

Notes: Trimming wage bill is for years after the first. First year trimming wage bill is only 5/6 as much, since there is no harvest in first two months.

Table V.3: Greenhouse Cannabis Production: Costs for a Typical Operation

		34,640 sf Facility
Capital Costs	Assumption	Total Cost
Construction	\$10/sf of greenhouse space	\$326,700
Equipment	\$10/sf of greenhouse space	\$326,700
Genetic stock	0.0635 plants/sf of growing space	\$24,503
<i>Total initial value of capital</i>		\$677,903
Startup cost per sf		\$20.75
Long Run Variable Costs		Cost Per Annum
	196 hours/month; same wage and markup as for indoor scenario	\$127,790
Management Labor		
Rent-related Cost		
Rent	\$566/month	\$6,792
Last month rent + security deposit (opportunity cost)	Security deposit is equal to one month's rent	\$113
Insurance	\$0.33/sf of greenhouse space p.a.	\$10,781
<i>Subtotal LRVC</i>		\$145,476
LRVC per sf		\$4.20

CT, CA, CO and WA



THERE ARE MANY SIMILARITIES BETWEEN THESE STATES' MEDICAL MARIJUANA PROGRAMS. FOR EXAMPLE, EACH STATE:

1. ALLOWS PATIENTS TO USE MARIJUANA IF A PHYSICIAN DOCUMENTS THAT THE PATIENT SUFFERS FROM A CONDITION OR SYMPTOMS THAT COULD BE TREATED WITH MARIJUANA (WASHINGTON ALLOWS CERTAIN OTHER MEDICAL PROVIDERS TO ALSO DOCUMENT THE NEED FOR MEDICAL MARIJUANA);
2. PROVIDES PROTECTION UNDER STATE LAWS FOR PATIENTS, AS WELL AS THEIR PRIMARY CAREGIVERS AND PHYSICIANS, FOR SPECIFIED ACTIONS RELATING TO AUTHORIZED MEDICAL MARIJUANA USE;
3. SPECIFICALLY PROVIDES THAT INSURERS ARE NOT REQUIRED TO COVER MEDICAL MARIJUANA;
4. PROHIBITS THE USE OF MEDICAL MARIJUANA IN CERTAIN SETTINGS;
5. SPECIFIES WHICH MEDICAL CONDITIONS QUALIFY FOR MEDICAL MARIJUANA USE.

CT, CA, CO and WA



THERE ARE ALSO NOTABLE DIFFERENCES. FOR EXAMPLE:

1. CONNECTICUT'S LIST OF QUALIFYING CONDITIONS IS THE MOST RESTRICTIVE (DOES NOT INCLUDE CHRONIC OR SEVERE PAIN).
2. UNLIKE THE OTHER THREE STATES, CONNECTICUT'S LAW DOES NOT (A) AUTHORIZE A PATIENT GROWING HIS OR HER OWN MARIJUANA FOR MEDICAL USE OR (B) ALLOW MEDICAL MARIJUANA USE BY MINORS.
3. COLORADO AND CONNECTICUT REQUIRE DISPENSARIES TO BE STATE LICENSED (CONNECTICUT'S LICENSING REGULATIONS HAVE YET TO BE ENACTED). CALIFORNIA AND WASHINGTON DO NOT LICENSE DISPENSARIES.
4. CALIFORNIA, CONNECTICUT, AND COLORADO ISSUE PATIENT REGISTRY OR IDENTIFICATION CARDS (REGISTRATION IS NOT MANDATORY IN CALIFORNIA). IN 2011, WASHINGTON'S GOVERNOR VETOED A PROVISION THAT WOULD HAVE CREATED A PATIENT REGISTRY.
5. THE STATES ALSO DIFFER IN THE AMOUNT OF MARIJUANA THAT PATIENTS CAN POSSESS.

CT Provisions on Growing and Dispensing MMJ



CONNECTICUT'S MEDICAL MARIJUANA LAW DOES NOT AUTHORIZE PATIENTS TO GROW THEIR OWN MARIJUANA.

THE LAW REQUIRES THE DCP COMMISSIONER TO ADOPT REGULATIONS CONCERNING THE LICENSURE AND STANDARDS OF MARIJUANA DISPENSARIES AND PRODUCERS (CGS §§ 21A-408H, 408I).

THE LAW PROHIBITS ANYONE WHO IS NOT LICENSED BY DCP AS A DISPENSARY OR PRODUCER FROM ACTING AS ONE.

ONLY LICENSED PHARMACISTS ARE ELIGIBLE FOR DISPENSARY LICENSES. THE COMMISSIONER CANNOT ISSUE DISPENSARY OR PRODUCER LICENSES UNTIL THE REQUIRED REGULATIONS TAKE EFFECT (WHICH HAS YET TO OCCUR).

AMONG OTHER THINGS, THE REGULATIONS MUST (1) DETERMINE THE NUMBER OF DISPENSARIES AND PRODUCERS APPROPRIATE TO MEET THE NEEDS OF THE STATE'S QUALIFYING PATIENTS (THE NUMBER OF PRODUCER LICENSES MUST BE AT LEAST THREE BUT NO MORE THAN 10)

CA Provisions on Growing and Dispensing MMJ



CALIFORNIA'S MEDICAL MARIJUANA LAW ALLOWS PATIENTS TO CULTIVATE THEIR OWN MARIJUANA UPON A PHYSICIAN'S RECOMMENDATION OR APPROVAL (CAL. HEALTH & SAFETY CODE §§ 11362.5).

STATE LAW ALSO EXEMPTS FROM VARIOUS CRIMINAL SANCTIONS QUALIFIED PATIENTS, PEOPLE WITH VALID IDENTIFICATION CARDS, AND THEIR PRIMARY CAREGIVERS WHO ASSOCIATE WITHIN CALIFORNIA TO COLLECTIVELY OR COOPERATIVELY CULTIVATE MARIJUANA FOR MEDICAL PURPOSES (CAL. HEALTH & SAFETY CODE § 11362.775).

OTHER PROVISIONS OF THE STATE MEDICAL MARIJUANA ACT SPECIFY THAT THE ACT DOES NOT:

1. AUTHORIZE ANY INDIVIDUAL OR GROUP TO CULTIVATE OR DISTRIBUTE MARIJUANA FOR PROFIT (CAL. HEALTH & SAFETY CODE § 11362.765) OR
2. PREVENT A CITY OR OTHER LOCAL GOVERNING BODY FROM ADOPTING AND ENFORCING LOCAL ORDINANCES THAT REGULATE THE LOCATION, OPERATION, OR ESTABLISHMENT OF A MEDICAL MARIJUANA COOPERATIVE OR COLLECTIVE (CAL. HEALTH & SAFETY CODE § 11362.83).

CO Provisions on Growing and Dispensing MMJ



COLORADO ALLOWS MEDICAL MARIJUANA PATIENTS TO GROW THEIR OWN MARIJUANA, SUBJECT TO PLANT LIMITATIONS.

COLORADO LICENSES THREE TYPES OF MEDICAL MARIJUANA BUSINESSES:

1. MEDICAL MARIJUANA CENTERS (FACILITIES FOR PATIENTS TO PURCHASE MARIJUANA),
2. MEDICAL MARIJUANA OPTIONAL PREMISES CULTIVATION (OPC) (FACILITIES THAT GROW, HARVEST, AND PROCESS MARIJUANA FOR SALE IN CENTERS OR FOR USE IN INFUSED PRODUCTS); AND
3. MEDICAL MARIJUANA INFUSED PRODUCT MANUFACTURERS (MMIP) (FACILITIES WHICH PRODUCE MARIJUANA CONTAINING PRODUCTS, SUCH AS FOOD) (COL. REV. STAT. ANN. § 1243.3401 TO 404).

THESE BUSINESSES NEED BOTH STATE AND LOCAL APPROVAL FOR LICENSURE. STATE LICENSURE IS THROUGH THE DEPARTMENT OF REVENUE.

WA Provisions on Growing and Dispensing MMJ



WASHINGTON LAW ALLOWS MEDICAL MARIJUANA PATIENTS TO GROW THEIR OWN MARIJUANA, SUBJECT TO LIMITATIONS. IT ALSO ALLOWS UP TO TEN PATIENTS TO CREATE AND PARTICIPATE IN COLLECTIVE GARDENS TO PRODUCE MARIJUANA FOR MEDICAL USE, SUBJECT TO CERTAIN CONDITIONS.

WASHINGTON LAW DOES NOT PROVIDE FOR MEDICAL MARIJUANA DISPENSARIES OR LICENSE MEDICAL MARIJUANA PRODUCERS. IN 2011, WASHINGTON'S GOVERNOR VETOED SEVERAL PROVISIONS OF A BILL (SB 5073) AFFECTING THE STATE'S MEDICAL MARIJUANA PROGRAM, INCLUDING PROVISIONS ESTABLISHING LICENSING REQUIREMENTS FOR BUSINESSES THAT PRODUCE, PROCESS, OR DISPENSE MARIJUANA.

WASHINGTON LAW SPECIFIES THAT CITIES AND TOWNS MAY ENFORCE ZONING, BUSINESS LICENSING, HEALTH AND SAFETY, OR TAXING REQUIREMENTS PERTAINING TO MARIJUANA PRODUCTION, PROCESSING, OR DISPENSING. (REV. CODE WASH. § 69.51A.140).

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2000

Chapter 207, Laws of 2015

64th Legislature
2015 Regular Session

MARIJUANA--STATE AGREEMENTS WITH INDIAN TRIBES

EFFECTIVE DATE: 7/24/2015

Passed by the House April 24, 2015
Yeas 79 Nays 17

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 24, 2015
Yeas 46 Nays 0

BRAD OWEN
President of the Senate
Approved May 8, 2015 9:58 AM

JAY INSLEE
Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2000** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER
Chief Clerk

FILED

May 8, 2015

Secretary of State
State of Washington

WA HB 2000



AN ACT RELATING TO AUTHORIZING THE GOVERNOR TO ENTER INTO AGREEMENTS WITH FEDERALLY RECOGNIZED INDIAN TRIBES IN THE STATE OF WASHINGTON CONCERNING MARIJUANA.

AUTHORIZES THE GOVERNOR TO ENTER INTO AGREEMENTS WITH FEDERALLY RECOGNIZED INDIAN TRIBES REGARDING ANY MARIJUANA-RELATED ISSUE THAT INVOLVES BOTH STATE AND TRIBAL INTERESTS OR OTHERWISE HAS AN IMPACT ON TRIBAL-STATE RELATIONS.

EXEMPTS TRIBES FROM STATE SALES, EXCISE, AND USE TAXES WITH RESPECT TO TRIBAL COMMERCIAL ACTIVITIES INVOLVING MARIJUANA, BUT ONLY WHERE SUCH AN EXEMPTION IS COVERED BY A TRIBAL-STATE AGREEMENT.

AUTHORIZES LICENSED MARIJUANA RETAILERS TO PURCHASE AND RECEIVE MARIJUANA AND PROCESSED MARIJUANA PRODUCTS FROM A FEDERALLY RECOGNIZED INDIAN TRIBE AS PERMITTED BY A TRIBAL-STATE AGREEMENT.

AUTHORIZES STATE LICENSED MARIJUANA PRODUCERS AND PROCESSORS TO SELL AND DISTRIBUTE MARIJUANA AND PROCESSED MARIJUANA PRODUCTS TO A FEDERALLY RECOGNIZED INDIAN TRIBE AS PERMITTED BY A TRIBAL-STATE AGREEMENT.



The Lamron

GENESEO'S STUDENT NEWSPAPER
SINCE 1922

(/)

Why pot growers in California are dreading marijuana legalization

by Kevin Frankel (<http://thelamron.com/author/kevinfrankel/>) on March 6, 2014 in [Opinion \(http://thelamron.com/section/opinion/\)](http://thelamron.com/section/opinion/)

The legalization of marijuana for recreational use has gained significant traction in the United States. With Colorado and Washington already enacting laws making it legal for persons over the age of 21, many are expecting more states to follow suit, and some even feel that federal laws regarding marijuana could soon come off the books.

In theory, weed legalization should be beneficial to all. States can make money by taxing recreational pot while at the same time saving money previously spent on prosecuting drug offenders. Those who simply want to enjoy marijuana without fear of arrest are free to do so.

There is one group of people, however, who have a very good reason to oppose potential legalization, and they may be the most important people involved: the farmers who make a living growing marijuana.

Marijuana has potential to become Nevada's biggest cash crop

By DAVID FERRARA LAS VEGAS REVIEW-
JOURNAL

May 24, 2014 -
11:34pm

Posted Updated May 25, 2014 - 7:10am



Estimated Profit



HIGH-GRADE ALFALFA GROWN ON FARMS THROUGHOUT NORTHERN NEVADA EARNS ABOUT \$100 PROFIT PER ACRE-FOOT OF WATER.

GOLF COURSES IN LAS VEGAS MAKE ABOUT \$5,000 TO \$7,000 PER ACRE-FOOT OF WATER.

THE RAND DRUG POLICY RESEARCH CENTER ESTIMATES PRODUCTION COSTS FOR SINSEMILLA OF \$200 - \$400 PER POUND, PLUS ANOTHER \$20 - \$35 PER POUND FOR HARVESTING AND PROCESSING, WHICH ARE A FACTOR OF TEN LOWER THAN THE CURRENT POUND PRICE FOR SINSEMILLA IN THE U.S.

MARKET PRICE AFTER LEGALIZATION?

CA Prop 215 Questions



CULTIVATION OF CANNABIS IN CALIFORNIA

Regulation/local and tribal ordinances

Business operations and taxes

TRANSPORTATION OF CANNABIS IN CALIFORNIA –WHAT RULES GOVERN?

Tribal lands

Non-tribal lands

DISPENSING CANNABIS TO PATIENTS IN CALIFORNIA

BANKING AND FINANCIAL MATTERS

Bank accounts

What does it mean to run a business on cash operations

Financial records

Taxes

CA Prop 215 Questions



CALIFORNIA ATTORNEY GENERAL OFFICE REGULATORY RESPONSIBILITIES AND GUIDELINES

PANEL LOCAL LAW ENFORCEMENT: LOCAL AND TRIBAL ORDINANCES

Sheriffs

Police

DEA

State

COUNTY COUNSEL AND LOCAL REGULATION OF MEDICAL MARIJUANA ON NON-TRIBAL LANDS

CA Prop 215 Questions



DISTRICT ATTORNEYS: TO PROSECUTE OR NOT TO PROSECUTE

TRIBAL REGULATION AND INTERACTION WITH LOCAL NON-TRIBAL AUTHORITIES

UNITED STATES ATTORNEY- OCTOBER 2014 POLICY STATEMENT AND WHAT IT MEANS FOR INDIAN COUNTRY

Environmental Costs



MOST IMPORTANT ENVIRONMENTAL COST OF CULTIVATION OF CANNABIS IS ENERGY FOR INDOOR GROWING (LESSER GREENHOUSE)

ENERGY CAN BE 1/3 OF PRODUCTION COSTS

OTHER ENVIRONMENTAL EFFECTS OF CANNABIS INCLUDE WATER USE, FERTILIZER GREEN-HOUSE GAS EMISSIONS, AND CHEMICAL RELEASES, BUT ARE TYPICAL OF SIMILAR HORTICULTURAL AND AGRICULTURAL OPERATIONS, AND SHOULD NOT BE PRIMARY CONCERNS.

-- BOTC ANALYSIS CORPORATION (2013)

Indoor Grow Energy Consumption



INDOOR CANNABIS GROW USES 2000 KWH PER POUND OF PRODUCT

HIGH UNIT VALUE OF MARIJUANA (\$2,000/LB. @ WHOLESALE) MEANS ENERGY IS A SMALL FRACTION OF PRODUCTION COST AT 1,000 KWH FOR \$1,000 OF MARIJUANA

ESTIMATE IS CALIFORNIA INDOOR CULTIVATION USES 3% OF ALL ELECTRICITY IN THE STATE (MILLS 2012)

INDOOR LIGHTING LEVELS ARE 500-TIMES GREATER THAN RECOMMENDED FOR READING, AND POWER DENSITIES ARE 2000 W/M² OF GROWING AREA (MILLS 2012)

Indoor Grow Energy Consumption



INDOOR CANNABIS GROW USES CO₂ GENERATORS, FUELED BY NATURAL GAS OR PROPANE, TO RAISE INDOOR CO₂ LEVELS AND BOOST PLANT PRODUCTIVITY – UP TO 4 TIMES NATURAL LEVELS.

ILLEGAL INDOOR GROWS OFTEN USE OFF-GRID DIESEL OR GASOLINE FUEL GENERATORS.

Greenhouse Grow Energy Consumption



GREENHOUSE CANNABIS GROW USES 1000 MJ / M² PER POUND OF PRODUCT, WHICH IS ABOUT 1% OF INDOOR PRODUCTION

WINTER HEATING IS AN ADDED COST, AT 9-14 MJ / M²

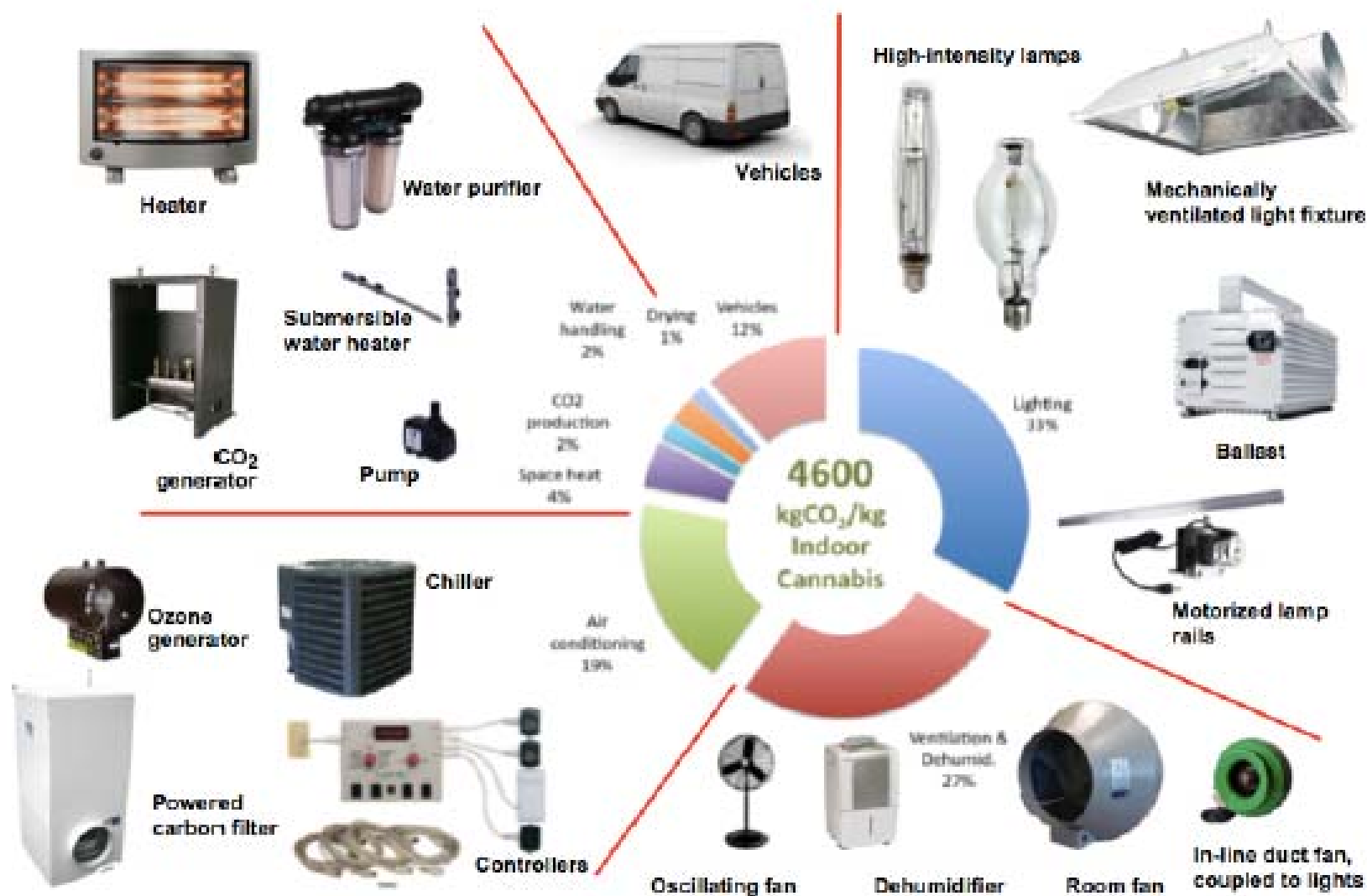


Fig. A1 - Relative contribution of energy-consuming appliances to overall CO₂ emissions for indoor production of cannabis.

Outdoor Grow Energy Consumption



FIELD PRODUCTION OF PSYCHOACTIVE CANNABIS IS ENVIRONMENTALLY SIMILAR TO GROWING HEMP (NON-PSYCHOACTIVE) OR OTHER NITROGEN-HUNGRY FIELD OR ROW CROPS

VERY SMALL COMPARED TO GREENHOUSE OR INDOOR PRODUCTION

ILLEGAL CULTIVATION SOMETIMES USE DIESEL GENERATORS FOR 1,000 W GROW LIGHTS, AS BIG AS A SMALL PICKUP, AND SOMETIMES BURIED UNDERGROUND IN DUBIOUS PLACES

Indoor Water Consumption



INDOOR CULTIVATION IS WATER-INTENSIVE, PARTICULARLY WHEN HYDROPONIC

ONE CULTIVATION ROOM (22 M²) REQUIRES 151 L / DAY, OR 2.5 M OF WATER PER YEAR (98 IN. / YR) OF APPLICATION – MUCH HIGHER THAN SOIL-GROWN WATER APPLICATION

HYDROPONIC POLLUTION FROM NUTRIENTS CONTRIBUTES TO STREAM POLLUTION (NEGATIVE EFFECT ON PH, STREAM FLOW, WATER TEMPERATURE, AND NUTRIENT CONTENT

Outdoor Water Consumption



OUTDOOR CULTIVATION REQUIRES ABOUT 900 GALLONS OF WATER PER ACRE DAILY, OR 328,500 GALLONS PER YEAR, OR 1 ACRE FOOT PER YEAR FOR ONE ACRE.