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Marijuana's legalization fuels black market in other states

Trevor Hughes, USA TODAY

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(Photo: Trevor Hughes, USA TODAY)

Marijuana smugglers are growing and shipping vast quantities of illicit cannabis across the USA.

They're mailing it, driving it and, in at least one case, flying it around in skydiving planes. They're hiding it in truck beds and trunks and vacuum-sealing it to hide the smell as they pass police officers patrolling the interstates.

Many are starting in states where growing marijuana is legal, such as Colorado, and sending the drug elsewhere.

In June, Colorado prosecutors said they busted a 74-person operation producing 100 pounds of marijuana per month — enough to generate \$200,000 monthly, tax free, for more than four years.

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Police seized two tons of cannabis from dozens of homes and warehouses in the Denver metro area. Tangled up in the scheme were fathers and sons and several former professional football players.

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"Those of us in law enforcement kept saying, '(Legalization) will not stop crime. You're just making it easier for people who want to make money. What we've done is give them cover,'" Colorado Attorney General Cynthia Coffman said.

For decades, the black market was the only source of recreational marijuana in America. But in 2012, Colorado voters approved a ballot initiative to legalize the drug.

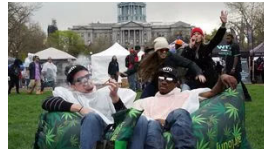
BLACK MARKET

Marijuana smuggling persists despite legalization



CONSEQUENCES

What's the big deal with legal pot? No one knows yet



ACROSS THE U.S.

States forge through uncharted territory



Seven states followed in 2014 and 2016. Now, nearly 65 million Americans live in states where adults can legally consume marijuana for any reason.

Legalization advocates have long argued that regulating marijuana forces the industry out of the shadows and into the public eye, where the drug can be taxed and the black market effectively eliminated.

But because marijuana remains illegal in so many states, smugglers can take advantage of the patchwork of laws. A pound of marijuana might sell for about \$2,000 in Colorado but could fetch three times as much in a large East Coast city.

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Less marijuana is crossing the U.S. border, according to the U.S. Border Patrol. The agency's marijuana seizures dropped by almost half between 2011 and 2016, falling from 2.5 million pounds to 1.3 million pounds.

Agents were hesitant to speculate about what caused the drop, but during that time U.S. consumers increasingly began buying domestic pot.

"We've seen it peak in 2011. ... Obviously, that's been down in recent years, but that's never to say that it's not going to pick up at any point," said Justin Castrejon, a Border Patrol agent with the El Centro Sector in California.

The El Centro Sector seized 49,000 pounds of marijuana in of 2011, Castrejon said. To date in 2017, the El Centro Sector has seized just 4,000 pounds of marijuana.

At the same time, some officers say they've seen an increase in cartel activity on the U.S. side of the border.

"The cartel's going to grow their marijuana in California because the risk is minimal," said Paul Bennett, a lieutenant with the Riverside County Sheriff's Department in California. "We have immediately seen and began to experience an increase in these large-scale ... plantations where 10,000, 25,000 plants are just growing in the open on public lands."

Legalizing marijuana at a state level has made the logistics of drug trafficking easier for cartels, Bennett said. They face only misdemeanor penalties in California and no longer need to worry about getting the drug through border security.

In Oregon, a draft assessment of the state's legal marketplace from the Oregon State Police estimated that the legal marijuana market makes up just 30% of Oregon's entire marijuana market. Growers may be producing nearly 2 million more pounds of marijuana annually than police know to be consumed in the state.

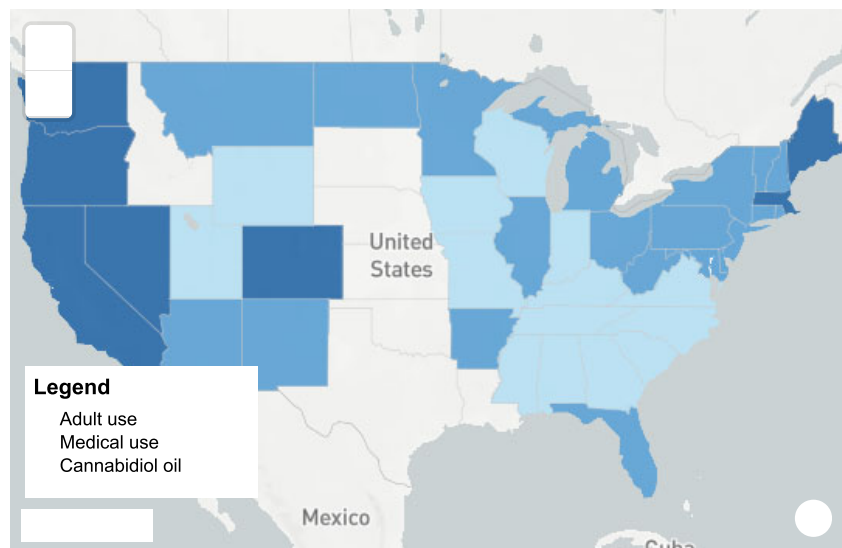
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Legalization "has provided an effective means to launder cannabis products and proceeds, where in essence, actors can exploit legal mechanisms to obscure products' origin and conceal true profits, thereby blurring the boundaries of the legal market and complicating enforcement efforts," the Oregon report concluded. "The illicit exportation of cannabis must be stemmed as it undermines the spirit of the law and the integrity of the legal market."

The flow of marijuana from Colorado already has prompted a lawsuit from the attorneys general in Nebraska and Oklahoma, who say smugglers caught with Colorado pot are overwhelming their jails.

Where marijuana is legal



Source: Desert Sun research
Map: Robert Hopwood, The Desert Sun

In 2016, the U.S. Supreme Court declined to hear the lawsuit. But the situation has Colorado authorities defending the state on the issue neighbors griped about before 2012: that legalization would foster more criminal activity.

Recreational marijuana remains illegal in every state surrounding Colorado, and law enforcement in those states are looking for it. The sheriff in Deuel County, Neb., has an evidence room piled high with Colorado marijuana that his deputies have confiscated from drivers crossing the border.

While Colorado law makes growing and possessing small amounts of marijuana legal, it's illegal to grow massive quantities without specific state approval. And all sales are supposed to stay within the regulated marketplace.

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Cops in neighboring states say some people they catch with Colorado marijuana show a receipt to prove they bought it legally — apparently forgetting that it's illegal to take that pot across state borders.

Those people aren't the real problem, said Coffman, the Colorado attorney general.

Instead, criminal organizations are setting up operations in Colorado and buying houses where they can grow marijuana, she said. Then, once the crops are harvested, they ship the drug elsewhere.

Busting those organizations now that marijuana is legal takes a lot more work than it did before 2012 when anyone caught with any amount of cannabis was breaking the law.

"Colorado describes it as what the public sees ... is the tip of the iceberg," said Bennett in Riverside County. "Just below the surface is the rest of the criminal enterprise, and it's the remainder of this huge, massive iceberg floating around."

According to projections from Green Wave Advisors, a cannabis-focused consulting firm, legal sales were 16% of total cannabis sales nationwide in 2016. In 2018, the firm predicts legal sales will reach a third of the market.

Only by 2020 do the consultants expect legal sales to surpass black-market sales.

"You're starting to see the evidence that these programs are not reining in the black market and are potentially growing it," said Jeff Zinsmeister, executive vice president of the anti-legalization group Smart Approaches to Marijuana.

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Zinsmeister worked in Mexico and Central America with U.S. government anti-drug programs and argues marijuana legalization is creating a new industry akin to Big Tobacco. His group believes that states should reduce or eliminate drug-possession penalties for marijuana users if they want to counteract the effects of the war on drugs, especially in minority communities that have faced disproportionate enforcement for decades.

But he doesn't think decriminalization requires a retail marijuana market.



A worker at Alaska Fireweed cannabis store in Anchorage fills paper cylinders with marijuana "shake" to make pre-rolled joints for sale to customers, especially tourists. (Photo: Trevor Hughes, USA TODAY)

"The discussion about the war on drugs isn't the same as widespread commercialization," Zinsmeister said. "We can keep people out of jail ... and still not have this industry."

Legalization advocates say that's a misguided approach, given that so many people already consume marijuana, whether or not it's legal. Make marijuana legal everywhere, and the black market is eliminated, they argue.

Sure, some people still make moonshine, but the vast majority of us buy legally made — and taxed — alcohol.

"These guys are on the wrong side of history," said Mason Tvert of the Marijuana Policy Project. "There's an easy way to solve that problem: Stop making arrests."

Colorado Gov. John Hickenlooper cautions other states to wait as Colorado's "experiment" plays out. The governor in the past several years has grown more confident in admitting the sky hasn't fallen.

"What I consistently say and continue to say is that our worst fears have not materialized," Hickenlooper said. "We haven't seen a spike in usage. We haven't seen a spike in usage among teenagers. We haven't seen an outbreak of people driving while high."

"I tell other governors they should probably wait a few years, and let's make sure there aren't unintended consequences we can't see at this moment," he said. "But it is fair to say that it has gone better than many people have expected."

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Colorado saw more than \$1 billion worth of marijuana sold in state-regulated and taxed stores last year.

"It's safe to say that there's less illegal activity taking place now than there was before," Tvert said. "We're looking at a billion-dollar market that's all now being produced and sold legally."

Colorado lawmakers this year invested a portion of the taxes collected from legal marijuana sellers into better black-market enforcement, and state officials are encouraging legitimate growers and sellers to turn in their illegal competitors.

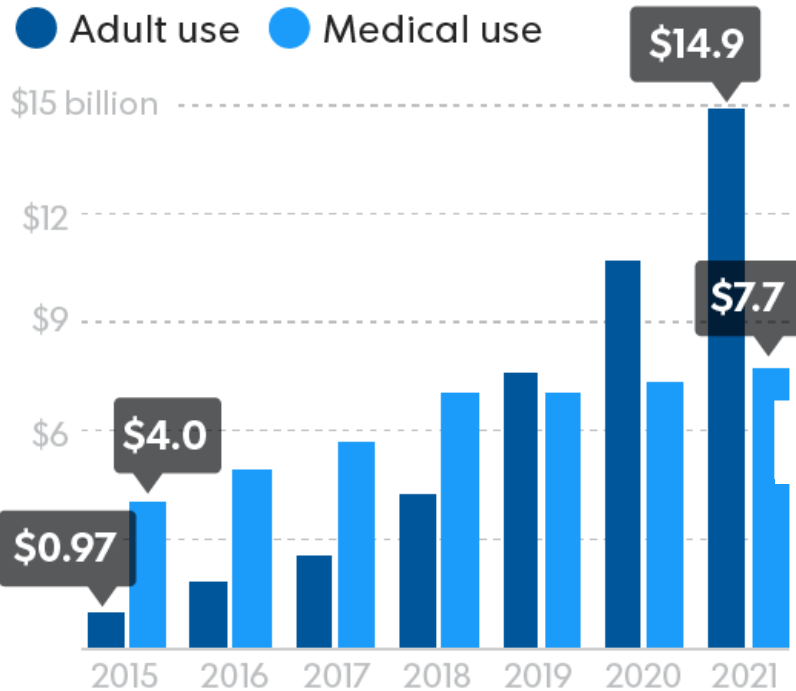
Coffman said that's an important step, since she's seeing more and more people moving to Colorado with the plan to grow pot and ship it home. In legal states like Colorado, black-market marijuana can be cheaper than the kind bought in stores because it's exempt from taxation.

"I honestly don't think you get rid of the black market by legalizing in all 50 states," Coffman said. "It's in existence because people are greedy."

Contributing: Rosalie Murphy and Kristen Hwang, (Palm Springs, Calif.) Desert Sun. Follow Trevor Hughes on Twitter: @TrevorHughes (<https://twitter.com/TrevorHughes>)

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