

GROWTH INDUSTRY



SAM COLLINS looks at the impact of legalising marijuana in some American states – and assesses the effect of regulation on this fast-growing industry

There are few products which have been through such a regulatory revolution over the past decade as marijuana in the United States.

For years following the first wave of anti-cannabis laws in the early 20th century, the United States fought what would become known as the ‘War on Drugs’ robustly and to often devastating effect for minority communities.

A decade ago more than three-quarters of a million people were being arrested each year for possession of marijuana¹ and while imprisonment for cannabis possession is a relatively rare occurrence, possession charges can result in people losing their jobs, or the funding for their university education.

But, while the federal restrictions are still in place, we have seen an incredible shift at the state level over the

intervening period.

As of 2019, almost two thirds of the American population live in states where possession of marijuana, whether for medical or recreational purposes, is legal, and a quarter of Americans live in states where possession and use of cannabis products for purely recreational purposes is legal.²

This means we have a unique opportunity to not only track the effect of cannabis legalisation across a range of regions – including the effect on the local economy, law enforcement and health outcomes – we can also see the effect from the wide range of different tax and regulatory environments that various states have set up in the aftermath of legalisation.

From the light-touch regulatory regime of Oregon, to the high-tax, strict regulatory environment of California, we have seen

radically different outcomes for businesses, governments and consumers.

Colorado was one of the very first states to legalise recreational marijuana in 2014. And the economic effects – after a few years of bedding in – have been impressive.

Although the regulatory regime in Colorado has been described as ‘overwhelming’ (with approximately 222 pages of state regulation³ – plus any local by-laws that might need to be followed) – the industry there has seen \$1.5bn in sales in 2018 and is responsible for up to 22,000 jobs directly or indirectly in the state.

In taxation revenue, the state gained some \$250m in excise and sales tax in 2018, more than alcohol, tobacco and cigarette excise taxes combined.⁴

The rate of growth has been stratospheric as well. Total income from sales in the

¹ Drug War Facts calculation, using figures from Department of Justice FBI Uniform Crime Statistics (https://www.drugwarfacts.org/chapter/crime_arrests#overlay=table/total_arrests)

² Own calculations from US Census Bureau population statistics overlaid with current recreational drug policies as of January 2019 – both New Jersey and New York are expected to legalise recreational marijuana use in 2019.

³ ‘Reefer Madness’: Tony Mecia, *Weekly Standard* (<https://www.weeklystandard.com/tony-mecia/reefer-madness>)

state rose 250% over the first four years, while the tax take rose almost 400% over the same period.

In other states, the rate of growth has been similarly impressive. Oregon's tax take from the first to the second year rose some 300%, and Washington State's also grew by some 400% over the first three years. In each state, not only is the economic effect significant, but growing.⁵

However, while Colorado, Oregon and Washington are impressive, the results in nearby California – the first state to allow medical marijuana, but only a recent legaliser of recreational cannabis – are not so remarkable.

Now, California being California, their policy is in something of a unique position. Their medical marijuana laws were considered so lax that recreational use has been effectively legalised for years before the law caught up.

But any hope of a so-called 'Green Rush', where state officials expected the marijuana market to potentially increase by \$1bn per year following legalisation, failed to materialise.⁶ Indeed, it is distinctly possible that marijuana sales will decline compared to when the drug was officially illegal for recreational purposes!

Why is this? Well, there are a number of possible reasons.

As mentioned above, other states saw significant growth after the first year of legalisation – it is possible that the teething problems in the legal market still need some work.

Added to this is the fact that medical marijuana was so accessible in much of California that possibly there were not the same number of black-market customers who would buy their product from legal dispensers (although the 160,000 drug misdemeanour charges against Californians in 2015 makes this seem unlikely).

But the most likely reason for this significant difference

rules following legalisation have reduced this number by 70%, with only 547 suppliers being issued a licence in 2018.⁷ Oregon, a state with only 10% of California's population, provided more supplier licences for recreational marijuana last year.

This lack of supply can be seen in the difference in prices paid by the consumer. Marijuana buyers in Washington and

THE RESULTS IN CALIFORNIA – THE FIRST STATE TO ALLOW MEDICAL MARIJUANA, BUT ONLY A RECENT LEGALISER OF RECREATIONAL CANNABIS – ARE NOT SO REMARKABLE

is the regulatory regime that California sought to introduce to make it deliberately difficult for cannabis-based businesses to operate across much of the state.

As in other states, local authorities at a city or county level can choose whether or not to allow marijuana sales in their locality.

However, while a significant part of the business model in states like Colorado and Oregon involves 'weed delivery services' from states that allow sales to those that do not, in California this has been banned by regulators.

The licensing requirement has also had a significant effect. Before legalisation almost 1,800 stores and dispensaries existed to supply the medicinal marijuana market, yet strict new licensing

Oregon can expect to pay about 20% less per ounce than in California, despite the fact that Washington's sales tax rate on recreational marijuana is 2% higher than in California.

While marijuana can be a significant boon to the local economy of a country that embraces legalisation, simply legalising is not enough. A well-thought-out, liberal regulatory and taxation regime needs to be set up around such new industries.

But, as history shows, a guaranteed way of stubbing out a developing industry is to burden it with high taxes, a heavy regulatory burden, and strict licensing requirements•

Sam Collins

Policy Advisor
to the Director General
Institute of Economic Affairs
scollins@iea.org.uk

⁴ Colorado Department of Revenue Tax Profile and Expenditure Report 2018 (<https://www.colorado.gov/pacific/sites/default/files/2018%20TP%26E%20%28DR%204016%29.pdf>)

⁵ Tax Foundation, quoted in Polifact Truthometer (<https://www.politifact.com/truth-o-meter/article/2018/oct/26/marijuana-legalization-5-charts/>)

⁶ 'One year of legal pot sales and California doesn't have the busting industry it expected. Here's why': Patrick McGreevy, *LA Times* (<https://www.latimes.com/politics/la-pol-ca-marijuana-year-anniversary-review-20181227-story.html>)

⁷ 'Greedy Politicians are already wrecking the legalised cannabis industry': Brittany Hunter, FEE (<https://fee.org/articles/greedy-politicians-are-already-wrecking-the-legalized-cannabis-industry/>)