

Colorado's Rollout of Legal Marijuana Is Succeeding A Report on the State's Implementation of Legalization

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FACTSHEET



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His research examines questions of presidential power in the contexts of administration, election, personnel, and public policy.

In November 2012, Colorado voters decided to experiment with marijuana, passing a constitutional amendment legalizing retail (recreational) marijuana. It was a bold move, but it also required quick, decisive, and unprecedented action on the part of the state government to implement the policy. Colorado needed to set up a legal, regulatory, and tax system so that product would be available in dispensaries by January 1, 2014. As part of an examination of Colorado's implementation and rollout, Brookings' John Hudak spent a week in Denver interviewing elected officials, regulators, industry officials, and others, playing a variety of roles and including supporters and opponents of legalization policy.

So, how did the state do? It turns out, Colorado has largely succeeded in rolling out a legal marijuana system, and its early implementation efforts have been impressive. A report released today details what has been successful, how the state has achieved an effective rollout, and what challenges the state faces. Below are a few highlights.

WHAT HAS COLORADO DONE?

- While it's too early to judge the success of Colorado's policy, it is not too early to say the initial implementation has been a success.
- Colorado has a market-based, heavily-regulated, moderately-taxed system that allows residents and tourists, 21 and older, to purchase marijuana in retail outlets.
- Regulations address issues of market size, safety, consumer access, producer access, growing conditions, security, taxation, and a variety of other areas.
- Colorado opted to reorganize its existing medical marijuana regulatory agency to deal with both medical and retail marijuana.

WHAT CONTRIBUTED TO A SUCCESSFUL ROLLOUT?

- To undertake the tremendous task of implementation the state used multiple task forces and working groups that were diverse, including legalization supporters, opponents, and a variety of experts from different backgrounds.
- Despite opposition to the ballot initiative, state leaders including Governor John Hickenlooper committed to supporting the will of the voters and employed a good-government approach to implementing the amendment.
- The governor's office sought to improve coordination around marijuana policy, among all stakeholders in and out of government, hiring a staffer who would effectively act as a marijuana policy czar.
- The Department of Revenue, the state agency charged with regulating marijuana, reorganized the



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- existing Medical Marijuana Enforcement Division, creating the Marijuana Enforcement Division with new leadership, new staff, and a clear mission.
- Groups from across Colorado have undergone cultural changes in adjusting to the new policy environment. Those from health care, law enforcement, traffic safety, and even industry have adjusted to the new demands and challenges that legal marijuana presents.
 - The state worked tirelessly with government, industry, law enforcement, public health, health care and other stakeholders including concerned citizens to create a comprehensive regulatory system that sought to balance safety, security, and access to marijuana. Some of the more important regulations include
 - Seed-to-sale tracking systems that assist regulators in enforcement and seek to prevent illegal product diversion.
 - An initial market that is vertically integrated, such that retail dispensaries must be owned by the same enterprise that grows the product.
 - An initial market that created temporary barriers to entry for new participants, privileging existing medical marijuana firms during the rollout.
 - Limitations on the amount of marijuana that can be purchased at one time, with different limits for Coloradans and tourists.
 - Extensive requirements for video surveillance at both grow operations and at marijuana dispensaries.
 - A revision of the system governing tax and fee revenue from marijuana that helps fund the regulatory division as well as diverting funds to other public policy areas.

WHAT CHALLENGES STILL EXIST?

Despite substantial success in Colorado's legal marijuana system, challenges still exist. For some, the state is actively pursuing solutions to the problems. Regardless, the state must work actively now and in the future to identify and address challenges and problems that arise as a result of or in conjunction with legal marijuana. Some of the current challenges include:

- Marijuana edibles have problems in terms of serving sizes, packaging, and potency. Small edibles sometimes have multiple servings and inconsistent levels of THC in them, making responsible consumption more challenging. A working group is currently developing rules around these issues.
- The constitutional amendment allows Coloradans to grow up to six marijuana plants at home—homegrows—for personal consumption. Homegrows present challenges because they are unregulated by the state, present risks for product diversion, and can lead to additional problems surrounding growing conditions and hash oil extraction.
- The state has misaligned incentives in areas of taxation and tourism that can and have led to unintended consequences. Differences in tax rates between medical and retail marijuana have not motivated gray-market medical users to switch to retail, as was hoped. Additionally, rules surrounding public use can incentivize tourists to use marijuana edibles, which as of now are risky for naïve users.

Implementing public policy is a challenge in any environment and with any policy. Recent failures at the federal level involving the Affordable Care Act, Veterans Affairs, and immigration policy shine the spotlight on those problems. At the same time, what is happening in Colorado shows how careful, thoughtful, and thorough approached to the design and execution of an administrative apparatus can pay dividends.

Despite firm deadlines, an unprecedented policy area, and initial opposition from political leadership, Colorado developed and rolled out a system that did exactly what voters asked: make retail marijuana available to any adult who wants it. Over time, Colorado should consider necessary changes to avoid direct and indirect problems and work hard to maintain that environment of success that it has achieved thus far.

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