Update for the Joint Marijuana Legalization Committee regarding the results and impacts of recent marijuana elections

Wednesday, December 14, 2016

Rob Bovett
AOC Legal Counsel
Oregon Local Options and Elections
Measure 91 Election Results and HB 3400 Opt Out Options

HB 3400 § 134 counties (local election required):  
- Yes
- No (less than 55%)

HB 3400 §§ 133/134 counties:  
- No (55% and above)
Time Place and Manner Regulations

• “Reasonable” TPM over seven categories of state licensed or registered marijuana businesses:
  • Retail producers
  • Retail processors
  • Retail wholesalers
  • Retailers
  • Designated medical growers
  • Medical processors
  • Medical dispensaries
Local Options

• Opt in/out of businesses
• TPM (including land use)
• Local taxation
November 8 Oregon Ballot Measures

- 7 statewide ballot measures
- 337 local ballot measures
  - 184 of 337 were local marijuana ballot measures
Allowing Marijuana Businesses

- 61 counties and cities (73 Measures)
  - 6 counties (13 measures)
    - 3 voted to allow (4 measures)
  - 55 cities (60 measures)
    - 24 voted to allow (25 measures)
Local Control of Marijuana Businesses in Oregon Counties

- **Opt out**
- **Opt out through election**
- **Opt out of retail only through election**
- **Opt out subjected to referendum, but referendum failed**
- **TPM or TPM in process**
- **No action thus far**
- **Opt in through election**

Updated 12/14/2016
Local Retail Marijuana Tax

- 111 counties and cities
  - 11 counties
  - 100 cities
- All 111 passed
  - Most by significant margins
Marijuana Local Option Tax in Oregon Counties

3% local option marijuana tax passed November 8, 2016

Updated 11/10/2016
Prior to November 8 Election

- not legal
- legal for medical use
- legal for medical and recreational use

23 states plus DC
November 8 Marijuana Elections

- **Added 3 new medical states** (and expanded 1 existing)
  - Arkansas Issue 6  
    - Yes 53%
  - Florida Amendment 2  
    - Yes 71%
  - Montana Initiative 182 (*expansion*)  
    - Yes 58%
  - North Dakota Measure 5  
    - Yes 64%

- **Added 4 recreational states** (each already allowed medical)
  - Arizona Proposition 205  
    - No 51%
  - California Proposition 64  
    - Yes 57%
  - Maine Question 1 (*currently in recount*)  
    - Yes 50.17%
  - Massachusetts Question 4  
    - Yes 54%
  - Nevada Question 2  
    - Yes 54%
What does it all mean?

- Getting out my Dragon Ball . . . uh, I mean Crystal Ball . . .

1 3,000 grams of pure cannabis extract measuring up to 99% THC. Approximate value = $150,000.
MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with these determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law to some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
What does it all mean?

10th Amendment
The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.
What does it all mean?
What does it all mean?

1. Waging a war on pot would go against the will of many voters
2. Public opinion on marijuana is going in the opposite direction
3. Trump himself has said he supports medical marijuana and that states should handle the question of whether to legalize
4. It does not seem high on his list of priorities
5. Waging a war costs money
6. There’s a lot of money in marijuana these days and the prospect of much more in the future
7. The extent of federal government’s authority over these matters is unclear

Questions?