

## Marijuana legalisation

# Tax, and tax again

**America's first market for recreational marijuana will be far from free**

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FREE-THE-WEED campaigners speak not of “legalising” marijuana but of “taxing and regulating” it. True to their word, the ballot measure they placed before Colorado's voters last November, which won the support of 55% of them, was called the Regulate Marijuana Like Alcohol Act and contained provisions for a 15% excise tax. Now that the law is taking shape, the signs are that one of the world's first fully legal marijuana markets (Washington state also backed legalisation) will have all the taxes and rules anyone could have wished for.

Soon after Colorado's law was passed John Hickenlooper, the governor, appointed a task-force to produce a set of proposals for its implementation. The 24-member group concluded its hearings on February 28th and will formally issue its findings to lawmakers next week. A bill should be passed by early May.

In what its co-chair, Jack Finlaw, calls “a crazy couple of months”, the task-force rattled through dozens of issues. Many of its ideas are straightforward enough: rules on labelling, restrictions on advertising and provisions to protect youngsters. Non-residents should be allowed to buy weed, though in smaller amounts than locals. Joe Megyesy, a pro-legalisation lobbyist, calls the proposals “thoughtful and responsible”. But they add up to a far more restrictive market than exists for alcohol.



Claudio Munoz

Most importantly, the group wants to maintain, for three years, the “vertical integration” model that has governed Colorado’s medical-marijuana industry. Under this system retailers must grow at least 70% of the dope they sell. This forces licence-holders to master a suite of skills from cultivation to distribution. The task-force also suggests that for the law’s first year, only established medical-marijuana dispensaries should be granted retail licences. Some campaigners mutter about protectionism, though grudgingly admit that dispensaries deserve some reward for their pioneering (and risky) work.

Mr Finlaw admits that vertical integration makes it hard to apply the excise tax: licence-holders will have an incentive to undervalue their product. That may help explain another proposal: to slap a tax on marijuana sales, on top of existing state and local sales taxes and the proposed excise tax. No figure will be presented to the legislature, but an “example” of 25% was floated in hearings.

Regulators say they need the funds to enforce their rules. But set taxes too high, fear campaigners, and you leave the illegal market in place, which destroys one of the principal purposes of legalisation in the first place. Either way, any new taxes will have to be approved again by Colorado’s voters, probably in November.

Over-tight rules create opportunities for rent-seeking and cosy relationships between the industry and regulators. But Colorado’s legislators must perform a balancing act, because they

are being watched by the federal government. Marijuana remains illegal under federal law, and should Barack Obama's administration decide to crack down, as it has done in some medical-marijuana states, the work of the task-force would rapidly come undone. In December Eric Holder, the attorney-general, said the Department of Justice would issue its response to the votes in Colorado and Washington "relatively soon"; on February 26th he upgraded that forecast to "soon".

Some members of the prohibition industry are running out of patience. On March 5th the president of the International Narcotics Control Board, an arm of the UN, said that marijuana legalisation in America violated international treaties and threatened public health. Hours later, eight former heads of the Drug Enforcement Administration, which has led America's drug war for decades, expressed alarm that federal laws were not being enforced. One predicted that stoned drivers would leave roads "littered with fatalities".

Cooler heads have prevailed in Colorado, at least for now. As the task-force wrapped up its work Mr Hickenlooper, a legalisation sceptic, told members that although he feared the unforeseen consequences of Amendment 64, he acknowledged the need for pragmatism. With luck, his attitude may prove infectious.

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