

Legalization of Marijuana: Overview

Introduction

The production and sale of cannabis, also known as “marijuana,” has a long and complicated history in the United States. Long prized not only for its medical uses, but for hemp, a fiber derived from the same plant and used to make rope, cloth, and paper in the past, marijuana was identified as a dangerous substance in the 1930s. The Marihuana Tax Act of 1937 strictly regulated its sale, cultivation, and possession through a variety of tax duties, stamps, and other restrictions, virtually eliminating legal recreational use, and making hemp a significantly less attractive commercial product. Over the next three decades, restrictions tightened until the plant was classed as a dangerous drug on par with narcotics, and stiff penalties were enacted for possession.

Cannabis remains outlawed on a federal level as of 2019. Despite that, some states loosened restrictions on the plant beginning in the 1970s, allowing specific uses or limiting the penalties for possession of small amounts. In 2012 Colorado and Washington voters approved the legalization of cannabis for recreational use. These states regulated the plant much like alcohol, with possession of up to an ounce of marijuana legal for people aged twenty-one and over, and provisions for private cultivation, provisions for commercial sales and cultivation, and penalties for operating vehicles while impaired. By 2019 thirty-three states and the District of Columbia had passed laws that legalized marijuana in some form, with ten states and Washington, DC, legalizing recreational use of the plant.

As restrictions on marijuana use have loosened across the country, concerns loomed about its dangers, benefits, use, and regulation. Critics charge that marijuana is a dangerously intoxicating drug and that legalization will encourage overuse and unsafe behavior. Advocates argue that the plant has numerous benefits and that it can be used safely, with appropriate regulation, while also increasing tax revenue and limiting the black market.

Understanding the Discussion

Cannabidiol (CBD): A crystalline, nonintoxicating compound found in cannabis thought to have medicinal benefits. Cannabidiol is the second most prevalent cannabinoid in cannabis.

Drug Enforcement Agency (DEA): A federal agency responsible for enforcing regulations against controlled substances in the United States.

Marihuana Tax Act: A law placing a prohibitive, complex tax on the sale of cannabis and effectively outlawing recreational use.

Medical marijuana: Marijuana as recommended by a doctor for the treatment of a medical condition, such as cancer-related nausea, AIDS-related weight loss, or epilepsy.

Tetrahydrocannabinol (THC): The crystalline compound responsible for marijuana’s primary psychological effects.

History

The plant that produces the psychoactive compound tetrahydrocannabinol (THC), the nonintoxicating compound cannabidiol (CBD), and industrial hemp is essentially the same, though different strains have developed to emphasize various characteristics of the plant. This plant, *Cannabis sativa*, was widely cultivated from the seventeenth century to the nineteenth century not as a recreational drug, but as a vital, fast-growing source of material for rope and cloth. (*Cannabis indica* is also widely cultivated for nonindustrial uses, and there is considerable debate over whether these are the same species.) Early settlers of Virginia were required to grow hemp, and it was accepted in Pennsylvania, Virginia, and Maryland as legal tender.

Hemp began to be eclipsed by other products in the years after the Civil War. The intoxicating and medicinal properties of the plant instead found a ready market in the booming business of patent medicines. These unregulated concoctions, which sometimes contained such substances as cocaine, opium, alcohol, arsenic, and mercury, claimed to cure myriad diseases and complaints, and were sometimes the only form of pain relief affordable to the average American. The Pure Food and Drug Act of 1906 attempted to regulate these concoctions, among other things, and required that drugs containing cannabis be labeled as such.

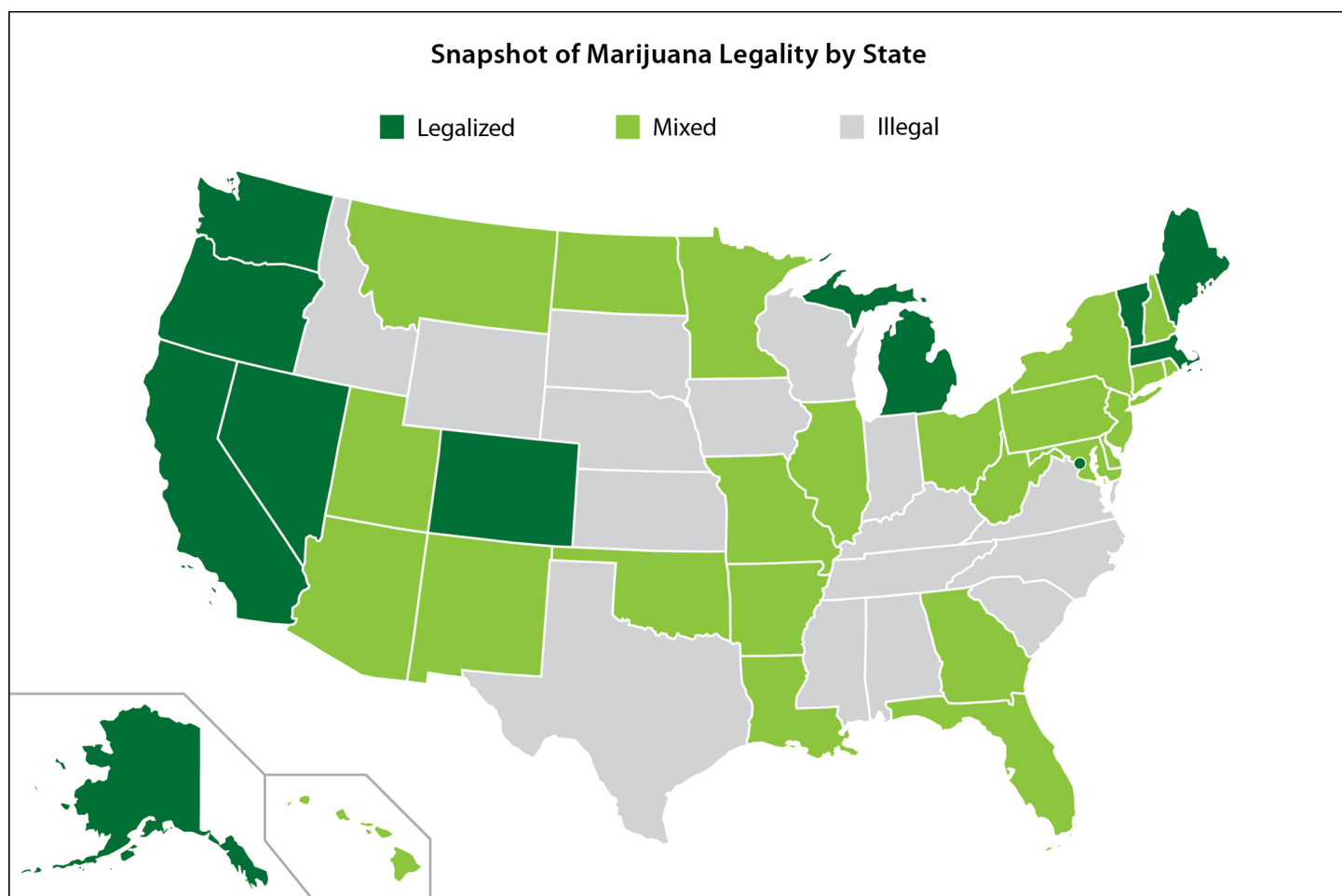
In the first decades of the twentieth century, marijuana use became increasingly associated with two ethnic groups who had long-standing cultural ties to the intoxicating plant. Mexican immigrants, many of whom came to the southwestern United States after the Mexican Civil War of 1910, became associated with the drug, along with immigrants from the Indian subcontinent, accustomed to the *Cannabis indica* strain. Mexican recreational marijuana use in particular was blamed for all sorts of violent and degenerate behavior, and the plant formerly referred to almost exclusively as cannabis began to be known by a variant of its Spanish name: marihuana. When Prohibition in the 1920s failed to bring about the elimination of alcohol, reformers turned their attention to marijuana, and the economic crisis of the Great Depression further exacerbated existing resentment and fear of the Mexican immigrants associated with the drug. Studies of dubious scientific rigor linked the drug with the increasing

violence and crime once again, and by 1931, twenty-nine states had outlawed the drug. The federal government was increasingly involved in the development and enforcement of antidrug laws. After the widespread popularity of the antimarijuana film *Reefer Madness* in 1936, the Marihuana Tax Act, the first national statute of its kind, set steep taxes and registration requirements for imports and medical and industrial uses. This effectively ended recreational use and hampered all other uses.

In the 1940s, there was a brief resurgence of interest in hemp for military uses, and a New York Academy of Medicine study in 1944 refuted previous claims that recreational use caused psychosis and violence, but the long war against cannabis continued. The 1950s saw increased mandatory sentencing laws and significant prison terms for possession of small amounts of the drug. In the 1960s, despite harsh laws, marijuana became very popular with counterculture groups, and sentiment began to turn again toward more lenient enforcement. In 1970, most

mandatory minimum sentencing was repealed for small amounts, and the Comprehensive Drug Abuse Prevention and Control Act categorized marijuana separately from other narcotics. Some states decriminalized the drug, and penalties for recreational use were generally light.

The pendulum swing back to widespread antimarijuana laws and harsh penalties began with the creation of the Drug Enforcement Agency (DEA) in 1973 and the backlash against the counterculture permissiveness of the previous decade. Amid rising crime, public attitudes began to shift once again, resulting in the 1980s War on Drugs. The 1986 Anti-Drug Abuse Act established mandatory sentences for drug crimes and the three-strikes policy, resulting in life sentences for repeat offenders. These policies resulted in skyrocketing incarceration rates, particularly for men of color.



Data based on current state laws as of April 2019.

Despite the strong federal laws prohibiting the possession of marijuana, on November 5, 1996, California passed the Compassionate Use Act, allowing for the use of marijuana for those with a demonstrable medical need. The 1996 California law

inspired other states to do the same. Over the next four years, four additional states and Washington, DC, passed laws in favor of medical marijuana.

Legalization of Marijuana Today

The years between 1996 and 2012 would see a radical transformation in the way that some states treated marijuana possession and consumption. Many Americans were disappointed with the failure of the War on Drugs, with its harsh penalties and mass incarceration. Decriminalization of the drug, where possessing less than a certain amount would be a civil matter, went hand in hand with legislation allowing consumption for medical purposes. By the end of 2012, fifteen states had decriminalized possession of marijuana either through a ballot initiative or through legislation, while nineteen had passed laws allowing for some measure of medical use.

Colorado and Washington caused a nationwide uproar in 2012 when they passed legislation to legalize recreational marijuana use. In 2014, Alaska, Oregon, and Washington, DC, followed suit, and Utah passed a law allowing for the medical use of CBD. By the end of 2018, only seventeen states had not made some allowance for small amounts of cannabis products for recreational or medical use, putting the remaining thirty-three states at odds with federal law, which classifies marijuana as a Schedule I illegal substance.

Banking, production, shipping, taxation, and federal enforcement of drug crimes in states that have legalized marijuana are all areas of debate and concern for state governments. States have also been grappling with how to deal with past convictions and criminal records associated with a drug they have legalized. It remains unclear, as of 2019, whether changes will be made at the federal level to bring laws in line with the diverse patchwork of local and state regulations across the country. What seems clear, however, is that the United States is moving, state by state, away from punitive legislation regarding marijuana for personal use. In a February 2018 position paper, the nonprofit Drug Policy Alliance summed up the issue: "Marijuana prohibition is unique among U.S. criminal laws—no other law is both enforced so widely and harshly yet deemed unnecessary by such a substantial portion of the population."

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