

OPINION: LEGALIZING MARIJUANA — NOT SO EASY, AFTER ALL, GOVERNOR?

CARL GOLDEN | SEPTEMBER 27, 2018

The rest of Murphy’s legislative agenda will suffer if this campaign promise is not delivered soon, but that prospect looks to be at least a year away



Carl Golden

The first promise was that it would be accomplished in the first 100 days. That was followed by assurances offered by editorial-page columnists that it would be law by the end of June. Take it to the bank, they predicted. That was followed by a pledge to act by the end of September.

Oops...oops... and triple oops.

If anyone required an object lesson in the dangers of overpromising and underdelivering, it can be found in the turmoil surrounding the proposal to remove the criminal sanctions on the possession of small amounts of marijuana for personal use.

A legalization bill is now optimistically predicted by the end of the year, but actual implementation probably won’t arrive until late next year or early 2020. It will take at least that long for the regulatory process to play out and to establish a statewide network of producers, distributors and sellers.

Shouting “legalization” from a campaign platform to a rally of supporters may stir up the faithful — as it’s intended to do — but it oversimplifies the issue and ignores the political, fiscal, social and cultural obstacles standing in the path.

Risky proposition

Setting deadlines for legislative action — the first 100 days, for instance — is a risky proposition, no matter the issue.

The absence of any organized opposition may have lulled supporters of legalization into believing approval was guaranteed and the state would soon be in the business of peddling weed and reaping the tax benefits in short order.

Nine months into Gov. Phil Murphy’s first term, legislation has yet to be finalized, delayed by differing approaches to nearly every aspect of legalization from the tax rate on sales to the number of outlets to locations to the allocation of revenue.

As is the case with all state revenue generators, money is the central issue and the one which creates the most controversy.

The most recent draft legislation fixes the tax rate on sales at 10 percent, drawing a cool response from the Murphy administration which favors a higher levy if the revenue stream is to meet its projections.

How to eradicate the black market

Proponents of the 10-percent rate argue that it is a level that consumers will find acceptable and anything significantly greater will send buyers back to dealing with the young man sitting in the

unmarked van in a strip-mall parking lot holding a briefcase full of baggies.

A higher rate, they contend, will fail to eradicate the black market and, in the absence of any penalty for possession, could actually be counterproductive and encourage growth of the underground commerce, depriving the state of anticipated tax benefits.

Dealing with the issue of appropriating the tax revenue, whatever the eventual rate, could prove to be even more contentious.

Earlier this month, for instance, three urban mayors – Ras Baraka of Newark, Steve Fulop of Jersey City and Ravi Bhalla of Hoboken – signed onto a manifesto demanding that communities such as theirs be given preference in the appropriations process as well as in deciding who is eligible for licensing.

They make the case that urban New Jersey has for years suffered more than any others in the war on drugs, including the prohibition on marijuana possession, and should, therefore, be favored in the distribution of profits from legalization.

Tax revenue as ‘reparations’

Their view was echoed more recently by an African-American pastor from Woodbury who criticized the proposals currently under debate as favoring the state budget and the white marijuana industry. He called for the tax revenue to be allocated as “reparations” for those who he argued have been treated unjustly by law enforcement and the criminal justice system.

Whatever legislation eventually reaches the governor’s desk, it is not likely to take on the appropriations issue directly but punt it to an advisory panel with responsibility for developing a regulatory system along with the conditions and qualifications for licensing.

It is anticipated that the panel will require at least a year to complete its work and, as it embarks on a series of public hearings, will be subject to intense political pressures and competing cross currents before the first joint is sold over the counter.

Murphy as well as Senate President Steve Sweeney (D-Gloucester) and Assembly Speaker Craig Coughlin (D-Middlesex) all remain committed to legalization and the idea, in general, still enjoys popular support. A Stockton Polling Institute survey earlier this year, for instance, found it was favored 49 percent - 44 percent.

The optimistic environment and the atmosphere that were created by the governor in his campaign produced a false encouragement for legalization proponents who saw it not as campaign rhetoric but as a solemn oath.

The governor and his legislative allies explain the delay and missed deadlines as the normal byproducts of a desire to “get it right” rather than act rashly and regret it later.

Fair enough, to be sure, but it is also a disappointment for those whose hopes for a program to reform the criminal-justice system and eliminate the racial disparity in arrests and incarcerations for marijuana possession while producing tax benefit for the state budget have been put on hold while the administration and the Legislature work toward dealing with the devil who inhabits the details.

It is crucial for the governor to deliver on his promise if the rest of his legislative agenda is to maintain credibility. Anything less is simply blowing smoke.

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