

Opinion: NJ voters seem certain to approve legalizing marijuana. Get ready for a battle over how to regulate it

CARL GOLDEN | OCTOBER 28, 2020 | [OPINION, NJ DECIDES 2020](#)

Expect 'protracted and quarrelsome' rule-making in Trenton, with private-interest and pressure groups working overtime to influence the process



Carl Golden

When — it's no longer a question of "if" — New Jersey voters on Tuesday approve a constitutional amendment to eliminate possession of small amounts of marijuana as a criminal offense, it will tee up a potentially contentious election year debate over the same issues that blocked legislative approval in the first instance.

The referendum was the fallback position after Democratic leadership was unable to convince a majority to support legalization via the legislative process, an effort that failed over irresolvable disputes concerning virtually all aspects of the proposal.

Those differences of opinion still exist, thrusting the debate into the middle of a crucial election year when the governor's office and all 120 legislative seats will lead the ballot.

Whether conferring official state sanction on the possession and use of a drug still illegal under federal law is sound public policy will no longer be at issue. But enforcement, licensing, locating and limiting the number of outlets and use of tax revenue generated by sales remain sources of disagreement, potentially pushing the first over-the-counter pot purchase to 2022.

[The ballot question establishes](#) 21 as the age required for purchases, imposes the state sales tax of 6.625%, permits municipalities to impose an additional 2% tax, and creates a five-member Cannabis Regulatory Commission to oversee the program.

All other details are left to the Legislature and creating the business model and crafting oversight rules and conditions will be protracted and quarrelsome. Private interests and pressure groups will put in overtime hours to influence the regulations, seeking those which benefit — or at least do no harm — to their clients.

Sen. Ron Rice, a fierce opponent of legalization

Certain to be at the center of the debate will be Newark Democratic Sen. Ron Rice, a fierce opponent of legalization; he has scathingly portrayed it as a bonanza for wealthy investors who will prey on minority communities in particular while accomplishing little in the way of help for those hit the hardest by the decades-old war on drugs.

Rice, an equally fierce proponent of decriminalization, has sharply criticized legalization supporters for what he argues is disguising their real motive — handsome profits — behind claims that removing criminal penalties is a major and badly-needed step toward reforming a justice system which incarcerates minority youths at a disproportionate rate and produces a far-reaching destructive impact on their futures.

Decriminalization, he insists, is preferable by reducing the penalty for possession to the level of a traffic ticket — no arrest, a small fine, no criminal record, allowing offenders to truthfully respond "no" to the standard application question "Have you ever been convicted of a crime?"

He envisions "marijuana bodegas" springing up in urban areas while delivering a message to young people that the state has conferred its blessing on drug use.

Legalization, its supporters argue, will seriously cripple the black market and put an end to the surreptitious transactions in strip mall parking lots under the cover of darkness.

At its most basic, though, the issue revolves around money as much as it does about instilling a fundamental fairness in the criminal justice system.

Creating a regulated market and strictly enforcing it will tap into a potential tax revenue stream, much as the sale of alcohol has produced over the years.

Questions over financial impact

The fiscal impact, though, is anything but settled. The most recent study issued by the nonpartisan Office of Legislative Services, for example, estimates the state would realize \$125 million in sales tax income, while warning that the total depends on the size of the market and, more tellingly, could fall sharply should neighboring states move to legalization and compete for consumers.

At a time when New Jersey faces unprecedented and potentially long-term fiscal challenges, it is prudent to explore new or expanded revenue suggestions, proponents say, and legal marijuana is an appropriate source.

With a state budget of \$40 billion, critics contend, \$125 million is little more than a mere blip on the balance sheet. Moreover, in a highly competitive market, a drop-off in revenue is a distinct possibility.

There remains a body of opinion that a cash-strapped government should refrain from sanctioning heretofore illegal acts simply because it needs money. Turning to greater operational austerity and spending cuts should take priority.

The reality, though, is clear: Public support for legalization has risen to over 60% and next week's referendum is virtually certain to reflect that.

Rice, who has been in the Legislature for 34 years, and those who share his view are realists who understand their task now is to exert influence over the implementing legislation to take their position into account.

Rice, who's not at all reluctant to oppose his party's leadership and governor, will drive a hard bargain, but it will be an uphill fight.

Legislators who may have harbored misgivings about legalization, will benefit from the cover provided by the results of the referendum and justify their position of support as simply carrying out the expressed will of the people.

That, of course, was the idea behind the referendum in the first place.

BALLOT

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