

Wash. vows to try to keep weed in state

By Gene Johnson
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SEATTLE (AP) - So far, no one is suggesting checkpoints or fences to keep Washington state's legal pot within its borders.

But Gov. Jay Inslee insists there are ways to prevent the bulk smuggling of the state's newest cash crop into the black market, including digitally tracking weed to ensure that it goes from where it is grown to the stores where it is sold.

With sales set to begin later this year, he hopes to be a good neighbor and keep vanloads of premium, legal bud from cruising into Idaho, Oregon and other states that don't want people getting stoned for fun.

It's not just about generating goodwill with fellow governors. Inslee is trying to persuade U.S. Attorney General Eric Holder not to sue to block Washington from licensing pot growers, processors and sellers. Marijuana remains illegal under federal law.

"I am going to be personally committed to have a well regulated, well disciplined, well tracked, well inventory-controlled, well law-enforcement-coordinated approach," said Inslee, who expects to give Holder more details by next week.

Keeping a lid on the weed is just one of the numerous challenges Washington state authorities and their counterparts in Colorado – where voters also legalized pot use – will face in the coming months.

The potential of regulatory schemes to keep pot from being diverted isn't clear. Colorado already has intensive rules aimed at keeping its medical marijuana market in line, including the digital tracking of cannabis, bar codes on every plant, surveillance video and manifests of all legal pot shipments.

But law enforcement officials say marijuana from Colorado's dispensaries often makes its way to the black market, and even the head of the Colorado agency charged with tracking the medical pot industry suggests no one should copy its measures.

The agency has been beset by money woes and had to cut many of its investigators. Even if the agency had all the money it wanted, the state's medical pot rules are "a model of regulatory overreach," too cumbersome and expensive to enforce, Laura Harris said in a statement.

Last fall, voters made Washington and Colorado the first states to pass laws legalizing the recreational use of marijuana and setting up systems of state-licensed growers, processors and retail stores where adults over 21 can walk in and buy up to an ounce of heavily taxed cannabis.

Both states are working to develop rules for the emerging pot industry.

The Obama administration could sue to block the legal markets from operating, on the grounds that actively regulating an illegal substance conflicts with federal drug law. The DOJ is reviewing the laws but has given no signals about its plans.

It has never sued states like Colorado that have regulated medical marijuana, even though it could under the same legal principles.

Part of the DOJ's political calculus in deciding whether to sue is likely to be how well the department believes the two states can keep the legal weed within their borders. During a meeting with Inslee last week, Holder asked a lot of questions about diversion, Inslee said.

Alison Holcomb, who led Washington's legal pot campaign, said it's important to respect states that haven't legalized weed by not flooding their black markets. The first step, she said, is for the state to figure out how much pot should be produced, and then grant licenses accordingly.

"Excess supply creates incentive to divert outside the state," she said.

Washington's Liquor Control Board is planning a comprehensive survey to estimate how much marijuana is consumed in the state.

Inslee has boasted about the effectiveness of the State Patrol's highway interdiction program in stopping drug trafficking. Traditional police work, combined with inventory controls, will be key to clamping down on diversion, he said.

Digital tracking of the weights of marijuana shipments between processors and retailers would help make sure there isn't "10- to 20-percent shrinkage that's going to the black market," he said.

But even if the state can prevent bulk pot from being diverted, there's nothing to keep customers from walking into multiple stores, or returning to the same store, to collect more than their 1-ounce limit. Some traffickers could recruit many people to buy weed for them.

Tom Gorman, head of the Rocky Mountain High Intensity Drug-Trafficking Area, said efforts to keep a lid on legal marijuana simply don't work.

Pot from Colorado's medical marijuana system – often described as the most closely regulated in the world – routinely makes its way into Kansas, Nebraska, Wyoming and points east, often from dispensaries that have sold out the back door, he said.

A brief law enforcement survey the organization conducted last summer turned up numerous cases in which suspects had made purchases at Colorado dispensaries before being busted in other states.

In the past two years, Colorado's medical pot regulators have levied 54 fines against licensed businesses, but have never revoked or suspended a license.

Matt Cook, the former director of Colorado's Medical Marijuana Enforcement Division, defended the "seed-to-store" regulations in the state.

Cook, who is applying for a job as a consultant to Washington's marijuana regulators, noted that at any time officials could check the digital records, pull the surveillance video or drop in for an inspection – and the fear of getting busted keeps people in line.

Bob Hoban, whose law firm represents nearly 100 medical marijuana businesses in Colorado, agreed, and noted another incentive for dispensaries to behave.

"It's a cutthroat business," he said. "If somebody sees something unusual, they're going to provide a tip. ... There's just about as good of a safeguard as you can have for diversion in the state of Colorado, and a lot of that is Big Brother watching you."