

INVESTIGATE-AND-TAX APPROACH OUTLINED TO ADDRESS ILLEGAL POT MARKET

By

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STATE HOUSE, BOSTON, APRIL 10, 2019....Five months after the first retail marijuana store opened in Massachusetts, two Worcester-area lawmakers are looking to crack down on the continuing illicit sale of pot by creating an alternative to prosecution that would allow for illegal sellers to be taxed instead of charged with crime.

Sen. Michael Moore, a Millbury Democrat, and Rep. Hannah Kane, a Shrewsbury Republican, detailed on Wednesday their legislation that would create a task force to handle complaints and conduct investigations into illegal marijuana sales.

The legislation, which was filed this week in the House and Senate, is intended to target sellers operating like a legal business, but without a license. That could include smoke shops selling marijuana on the side, or pot dealers with websites and a network of delivery drivers.

Moore said the tax framework would create an "administrative alternative to criminal prosecution and a deterrent to other operators," and the legislation contains specific protections to not disqualify the illegal operator from entering the legal market in the future.

Nothing in the bill would stop law enforcement from bringing criminal charges in addition to the tax penalty.

"In order for the legal recreational market to thrive, the illicit market must be confronted," Moore said. "While traditional enforcement may be efficient in many cases, we must be open to new ideas and strategies as they emerge."

Moore, who co-chairs the Legislature's Public Safety Committee, said containing the illicit market would create more opportunity for local economic development and tax revenues.

"These benefits are the reason so many cities and towns have embraced the opportunity to host dispensaries, or processing or cultivation facilities, but the unlicensed marijuana operators threaten stability and benefits the legal market provides," he said.

The task force would be co-chaired by the head of the Massachusetts State Police and the commissioner of the Department of Revenue, and would include representation from the Cannabis Control Commission, Department of Public Health, attorney general's office, treasurer's office and the commissioner of the Department of Agriculture.

The governor would also be allowed to appoint two municipal police chiefs.

Moore said illegal sellers are able to undercut legal retailers on price and offer customers conveniences like home delivery that licensed sellers can't compete with right now. Kane said the continuation of illegal sales also means products on the street that have not been tested for chemicals or subjected to the same dosage and labeling requirements or age restrictions that licensed retailers must follow.

"In fact, the greatest sales opportunity for the illicit marijuana market is youth," Kane said.

Anyone referred to the new task force, investigated and found to have been selling marijuana illegally would be subject to a "forgone tax revenue assessment" equal to the excise and sales taxes that would have been collected on the confiscated products had they been sold legally. The money would be put toward police training, youth drug use prevention and the CCC's social equity fund.

"To get at the illicit market we need to get at both supply and demand," Cannabis Control Commissioner Britte McBride said.

Some marijuana activists who attended the State House press conference used the opportunity to voice their frustration with the level of regulation in the legal market and pace of the licensing process.

Bill Fynn, president of Massachusetts Cannabis Reform Coalition, said regulators should focus on opening more legal dispensaries to improve access and remove barriers for people to enter the legal market.

"I just see you caving to big business that comes from out of state," Flynn said.

McBride said the CCC is making progress toward meeting the demand for legal marijuana products that exists across the state, acknowledging that some consumers currently have no option for legal purchasing close to home.

"I'm confident we are going to get there," McBride said.

Walpole Police Chief John Carmichael said local law enforcement does currently enforce laws against illicit marijuana businesses, but said police also have their hands tied trying to fight the opioid epidemic.

McBride said measuring the impact of the growing legal market on illicit sales is part of the CCC's "research agenda," but could not say whether the illicit market has been growing or shrinking, or whether legally grown marijuana is being diverted to the black market.

BDS Analytics, a cannabis market research firm based in Colorado, has estimated that 76 percent of marijuana sales in Massachusetts in 2019 will be through the illegal market, and McBride said she's confident in saying that the Moore-Kane bill "has a place" without knowing the precise figures.

David Torrisi, a former legislator and current executive director of the Commonwealth Dispensary Association, stood with Moore and Kane as they rolled out their bill.

"This is a big piece of the puzzle," he said.

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