

Effect of Marijuana on South Dakota

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South Dakota has not legalized marijuana or THC in any form. Neighboring states such as Minnesota, Montana and North Dakota have or will have laws allowing legal usage. What is the effect on states that have not allowed the use of marijuana products and its neighboring states allow use of the same?

Drug Trafficking: Transporting of drugs into the State of South Dakota has increased. South Dakota is a rural state with comparatively small law enforcement agencies. Therefore, the odds of getting arrested are in the favor of those transporting drugs. In 2018, more than 53,350 pounds of marijuana were seized by law enforcement in the Midwest.

In addition, 1372.5 pounds of marijuana were seized after being sent through the mail to the states of Iowa, Missouri, and North Dakota. The source of these drugs were mainly Colorado, Oregon, Washington, and California.

The cases of trafficking of marijuana/THC fall into two categories. One is the individuals who brings in relatively large amounts of THC/marijuana for themselves or share with friends. Some do it for profit or simply get several months supplies for themselves or others. They are generally travelling from places where marijuana is legal to their residences.

The other type of distribution is what I call "bootlegging". These are individuals who are bringing large amounts of marijuana from growers on the West Coast to points east. These individuals are generally paid \$500-\$2500 to take black market marijuana to distribution points. The reason for use of illegal transporters is simple. Marijuana prices are dropping and therefore growers are dumping product. In that context, the easiest way to dispose of surplus is to hire a private driver, usually driving a rental car, to ship product from the growing areas to places of high demand. These amounts can vary from one pound to amounts as high as several hundred pounds.

As a side note, it is interesting to note that the falling prices have led to less marijuana coming from the cartels. The Mexican cartels have left the marijuana market because of oversupply of marijuana due to legalization and have gone into more serious drugs. In our office (SDATG-Rapid City) we have had very few cases of "cartel weed" in the last several years.

Drug Crimes: The increased availability of marijuana has a close effect on crimes related to marijuana possession. For example, one trooper with the South Dakota Highway Patrol shared with me the fact he had 106 DUI arrests, with 60 being DUI drug arrests, in 2018. These arrests were based on DRE examinations done by the trooper; the amount of THC levels allowable has not been established, therefore, law enforcement examination and sobriety tests are your litmus test. This increase in DUI/Drugs appears to be a trend on the increase and is consistent with trends in other states. For example, between 2014 and 2016 investigation involving marijuana DUIs increased by 66 percent. In Iowa, 51 percent of drug related fatal crashes involved marijuana in 2016 compared to 41 percent nationwide. The use marijuana before driving appears to be on the rise.

Expense to the Counties: First, a little background; in 2013, the Possession of Controlled Substance (Class 5 Felony) became subject to presumptive probation. This includes all Hashish products and some marijuana products. This does not include distribution charges.

The reasoning behind the law was that the State was sending to many defendants to prison and this put enormous pressure on the South Dakota Dept. of Corrections. Putting people in prison for drug charges is very expensive to state government.

As such, many Defendants charged with felony THC or felony marijuana were given probation with county jail time. For example, in West River, SD, this has put enormous pressure on the regional jails in Pennington County, Meade County and Lawrence Counties as a large number of prisoners doing county time for various drug offenses. As a result, Pennington County, SD had to come up with other programs, including Young Adult Diversion as well as expand the jail facilities. While the new polices took economic pressure off state government ,it put costs on local government.