UC Agriculture & Natural Resources
California Agriculture

Title
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Permalink
https://escholarship.org/uc/item/22s8755f

Journal
California Agriculture, 73(3)

ISSN
0008-0845

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Publication Date
2019

DOI
10.3733/ca.2019a0012

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CONVERSATION

"Like every other industry" — An on-the-ground perspective on Proposition 64

An interview with Amanda Reiman, Vice President of Community Relations, Flow Kana

Amanda Reiman

Amanda Reiman is vice president of Community Relations at Flow Kana, a cannabis distribution company that operates in California's "Emerald Triangle" (Humboldt, Mendocino and Trinity counties). Additionally, Reiman sits on the boards of the California Cannabis Tourism Association and The Initiative (an incubator for women-owned cannabis businesses). Reiman was until recently secretary of the International Cannabis Farmers Association, and has previously been director of Research and Patient Services at Berkeley Patients Group and manager of marijuana Law and Policy for the Drug Policy Alliance.

How would you assess the landscape for cannabis growers in California — in terms of legislation, regulations, taxation and so on — compared to what might have been hoped when Proposition 64 passed?

Proposition 64 was really focused on the criminal justice aspects of cannabis prohibition — on [addressing] the negative impact of criminalization, primarily on people of color. It also focused on what happens to consumer safety and protection in the absence of regulation. It didn't really prescribe regulation for the commercial sale of cannabis. The Legislature had already come up with a framework for regulating medical cannabis prior to Proposition 64 passing, and we didn't have any reason to think that [the Legislature's framework] would change drastically just because the criminal code had changed. We were right.

California regulates cannabis with a strong hand and high taxes. You have to interface with a lot of agencies to be compliant. Those agencies are often overburdened and understaffed. Cannabis farmers and the cannabis industry in general have to navigate the same pitfalls that we see [elsewhere] in the California regulatory landscape. But when you add in [the cannabis industry's] lack of access to banking, and [its] inability to transfer product across state lines — it makes it even more difficult for folks involved in this industry.

When you look at the legal, regulatory and tax regime in California, what single change would you identify as most important for bringing cannabis growers into the legal market?

I would probably say rethinking our tax structure. In the current regulatory environment, taxes are assessed at a flat rate for each pound of cannabis flower and trim that's sold to a distributor. What we'd really like to see is cannabis [taxed the way] they currently tax alcohol, based on production level. If you are an alcohol producer, you get quite a substantial tax break up until a certain amount that you produce. That way, smaller players pay less taxes and their work is actually subsidized by the folks that are making a lot more product and are able to keep costs down. I think that the state is a little reluctant to look at the tax structure, primarily because — and rightfully so — they have something to prove in terms of tax revenue. To start messing with the tax structure now, before they feel they've really proven that they can make the revenue — they're very reluctant to [do] that. But moving forward, the smaller producers will always need that extra support.

Could you identify one aspect of bringing cannabis cultivators into the legal structure that hasn't gone as well so far as might have been hoped?

An overarching issue is the tendency of localities to move toward indoor cultivation. We only have about 17 localities in the state — counties or cities — that allow sungrown cultivation [cultivation without

Only a limited number of California localities allow cannabis cultivation without supplemental light.

Online: https://doi.org/10.3733/ca.2019a0012

Proposition 64 has profoundly altered the cannabis industry in the Emerald Triangle — Humboldt, Mendocino and Trinity counties — and across the state.

supplemental light]. We're not doing enough to educate localities and regulators about the energy impacts of high-intensity lighting, or [the drawbacks] of setting up systems where the only way you can cultivate cannabis commercially is through very energy-intensive methods — which go very much against California's goals [for reducing] carbon emissions. I think the California Department of Food and Agriculture could talk more about sustainable cultivation — about implementing [incentive programs similar to those developed for] other industries — so that, from the get-go, we're establishing sustainable systems, rather than going back 10 or 15 years later to do a greening of the cannabis industry.

Would you say compliant growers, and those on their way to becoming compliant, generally support stepped-up enforcement against outlaw growers — the ones who dewater streams and use noxious pesticides and that sort of thing?

If I had to rank the type of cultivator that licensed cultivators are okay seeing law enforcement go after, number one would be people that are doing environmental degradation on public land. Folks in the forest or the national park who are harming the environment — I would say that almost no one would ever disagree [with enforcement against them]. The attitude changes when we talk about people on private land. Because even though nobody wants folks to be diverting from streams, there is a sense that "It's their land," and maybe they're *trying* to do better. That's part of the culture up here [in the Emerald Triangle]. A lot of folks came up here to buy big pieces of land [partly because] they wanted privacy, and to be themselves on their land. No one wants to see environmental degradation, but when it comes to private land, they may say "Is there a way you can go in and try to help [noncompliant growers] before law enforcement comes in? Can you go and give them a warning?"

In terms of people on private land who are not harming the environment, there is a strong belief that law enforcement should not be involved. Maybe these individuals want to become compliant but can't afford to become compliant. So instead of law enforcement prioritizing them, we should instead offer support and say, "What can we do to support you in transitioning to the regulated market?" It's not an all-or-nothing thing. There are definitely people cultivating without a license who are way more egregious than others.

I've heard people in the cannabis industry say that they just want to be treated like any other industry. Do you think that's a realistic hope in California over, say, the next decade or so?

Over the next decade, I do. I think that there are probably two main components that have to happen before we can start thinking about cannabis like other industries — one, of course, being banking. We cannot be treated like any other industry when we cannot bank. Until banking is allowed and we can get small business loans, we will not be like any other industry. The second thing is being able to ship across state lines. You can't ship wine to every state, but you can ship it to most states, and the ability of states like California and Oregon, or California and Washington, to enter into an agreement so cannabis can flow across the borders — that's another way that we will be able to be treated like every other industry. Until then, you have to cap production [at the level] your state can consume. Do we say, "Florida, you can only grow so many oranges because [your oranges] all have to stay in Florida?" That doesn't make sense. I'm hoping that both [banking and interstate shipments] will happen in the next 10 years. I think banking will happen *this* year — the SAFE Banking Act [a cannabis banking bill] was introduced in Congress this year with over 100 sponsors from both sides of the aisle.

If you bring people into the banking system, there isn't so much suspicious cash floating around unaccounted for — right?

Absolutely. That's why we don't we don't understand why we haven't gotten it already. If they really want to keep tabs on us, banking is the best way to do it. It also makes business safer and more stable for everyone involved. CA