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'Getting Worse, Not Better': Illegal Pot Market Booming in California Despite Legalization

By Thomas Fuller

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COSTA MESA, Calif. — In the forests of Northern California, raids by law enforcement officials continue to uncover illicit marijuana farms. In Southern California, hundreds of illegal delivery services and pot dispensaries, some of them registered as churches, serve a steady stream of customers. And in Mendocino County, north of San Francisco, the sheriff's office recently raided an illegal cannabis production facility that was processing 500 pounds of marijuana a day.

It's been a little more than a year since California legalized marijuana — the largest such experiment in the United States — but law enforcement officials say the unlicensed, illegal market is still thriving and in some areas has even expanded.

"There's a lot of money to be made in the black market," said Thomas D. Allman, the sheriff of Mendocino County, whose deputies seized cannabis oil worth more than $5 million in early April.

Legalization, Sheriff Allman said, "certainly didn't put cops out of work."

California's governor, Gavin Newsom, has declared that illegal grows in Northern California "are getting worse, not better" and two months ago redeployed a contingent of National Guard troops stationed on the border with Mexico to go after illegal cannabis farms instead.

Stepped-up enforcement comes with a certain measure of irony — legalization was meant to open a new chapter for the state, free from the legacy of heavy policing and incarceration for minor infractions. Instead, there are new calls for a crackdown on illegal selling.

Conscious of the consequences that the war on drugs had on black and Latino communities, cities like Los Angeles today say they are wary of using criminal enforcement measures to police the illegal market and are unsure how to navigate this uncharted era.

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The struggles of the licensed pot market in California are distinct from the experience of other states that have legalized cannabis in recent years. Sales in Colorado, Oregon and Washington grew well above 50 percent for each of the first three years of legalization, although Oregon now also has a large glut of pot.

But no other state has an illegal market on the scale of California's, and those illicit sales are cannibalizing the revenue of licensed businesses and in some cases, experts say, forcing them out of business.

Entrepreneurs in the industry, which spent decades evading the law, are now turning to the law to demand the prosecution of unlicensed pot businesses.

"We are the taxpayers — no one else should be operating," said Robert Taft Jr., whose licensed cannabis business in Orange County, south of Los Angeles, has seen sales drop in recent months.

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Jenna Schoenefeld for The New York Times

"This is starting to get ridiculous," he said of the illegal pot shops, including nearby businesses that list themselves as churches and advertise marijuana as a kind of sacrament. "It's almost like the state is setting itself up to lose."

California gives cities wide latitude to regulate cannabis, resulting in a confusing patchwork of regulation. Los Angeles, San Francisco, San Jose and San Diego have laws allowing cannabis businesses, but most smaller cities and towns in the state do

not — 80 percent of California's nearly 500 municipalities do not allow retail marijuana businesses. The ballot measure legalizing recreational marijuana passed in 2016 with 57 percent approval, but that relatively broad support has not translated to the local level. Cities like Compton or Laguna Beach decisively rejected allowing pot shops.

Regulators cite this tepid embrace by California municipalities as one of many reasons for the state's persistent and pervasive illegal market. Only 620 cannabis shops have been licensed in California so far. Colorado, with a population one-sixth the size of California, has 562 licensed recreational marijuana stores.

But the more fundamental reason for the strength of the black market in California — and what sets the state apart from others — is the huge surplus of pot. Since medical marijuana was made legal in California more than two decades ago, the cannabis industry flourished with minimal oversight. Now many cannabis businesses are reluctant to go through the cumbersome and costly process to obtain the licenses that became mandatory last year.

Of the roughly 14 million pounds of marijuana grown in California annually, only a fraction — less than 20 percent according to state estimates and a private research firm — is consumed in California. The rest seeps out across the country illicitly, through the mail, express delivery services, private vehicles and small aircraft that ply trafficking routes that have existed for decades.

This illicit trade has been strengthened by the increasing popularity of vaping, cannabis-infused candies, tinctures and other derivative products. Vape cartridges are much easier to carry and conceal than bags of raw cannabis. And the monetary incentives of trafficking also remain powerful: The price of cannabis products in places like Illinois, New York or Connecticut are typically many times higher than in California.

The state's illicit cannabis exports appear to be increasing even now, well into California's second year of legalization. New Frontier Data, a data research company that specializes in cannabis, calculates that high demand and more advanced growing techniques will contribute to approximately half a million pounds more illicit cannabis this year compared with 2018.

The federal government still considers marijuana illegal and the Drug Enforcement Administration says it still investigates marijuana-related crimes. But a spokesman, Rusty Payne, said the agency has a bigger crisis to attend to.

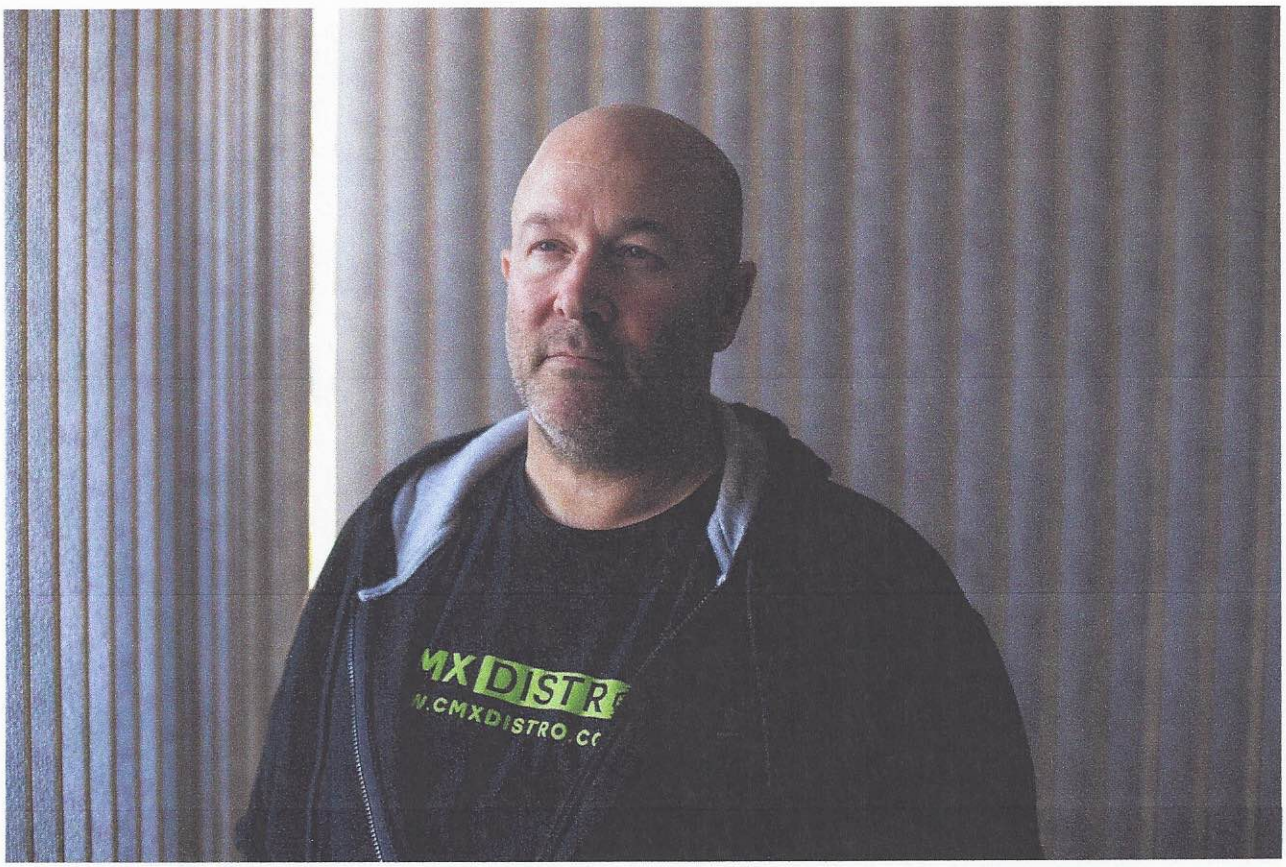
"We've got our hands full with the opioid epidemic to be honest," Mr. Payne said.

In wildland areas, seizures of illicit pot by the California Department of Fish and Wildlife more than doubled in 2018, the first year that recreational cannabis was legal.

The department destroyed 1.6 million marijuana plants last year, up from 700,000 in 2017 and 800,000 the year before — all of them illegally grown.

"There's a subset of people who are just refusing to get into the process," said Nathaniel Arnold, the department's deputy chief of enforcement.

The Bureau of Cannabis Control, the agency charged with regulating marijuana in the state, has received around 7,500 complaints, most of them about illegal operations, and has sent out more than 3,000 letters ordering illegal businesses to shut down.



Robert Taft Jr. says his licensed cannabis business in Orange County, south of Los Angeles, has seen sales drop in recent months. Jenna Schoenefeld for The New York Times

"It's only a matter of time before we start making a dent in the illegal market," said Alex Traverso, a spokesman for the agency, who acknowledged there were probably more illegal shops in Los Angeles alone than licensed shops in the entire state.

Cat Packer, the executive director of the Department of Cannabis Regulation in Los Angeles, said that even when illicit businesses were shut down, they often soon reappeared.

"It's been a game of whack-a-mole in the city of Los Angeles," she said.

But Ms. Packer also said the city was mindful that criminal enforcement in the past had disproportionately targeted people of color.

The city is seeking to find an effective enforcement policy that does not mimic the criminal interdiction policies of the past, Ms. Packer said. One strategy is to turn off water and power services to noncompliant businesses.

"We can't do Drug War 2.0," she said.

Mr. Taft, the cannabis entrepreneur, has sent 450 complaints to the Bureau of Cannabis Control and is unapologetic about his calls for an aggressive approach to illegal shops, which he says is the only way that California's giant experiment will work.

His dispensary pays a cumulative state and local tax rate of 32.25 percent. Unlicensed shops pay no tax.

One of Mr. Taft's biggest complaints is about Weedmaps, a phone app that allows users to locate marijuana businesses nearby, both licensed and illegal.

In February last year, the Bureau of Cannabis Control sent a letter to Weedmaps saying the company was aiding and abetting illicit businesses and ordering it to "immediately cease all activity that violates state cannabis laws."

Weedmaps replied that it was a technology company and not under the jurisdiction of the bureau. More than a year later, the company still lists hundreds of unlicensed shops.

Earlier this year, Mr. Taft resigned as a board member of the Santa Ana Cannabis Association because half the members, he said, were selling illegally and using legalization as a "shield."

"They are playing both sides of the market," he said.

On a recent weekday morning, Mr. Taft called the Bureau of Cannabis Control to lodge a complaint against his neighbor, a cannabis business that he said did not appear on the list of licensed businesses.

"We are being pillaged by these people," he said. "My lawyers are ready to launch rockets!"

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