

Emerald Triangle Pot Growers Resist State Regulation

California expects to make big bucks on recreational pot when sales begin next year. But many farmers balking at the high costs of regulatory compliance say there's far more money to be made on the black market.

NICHOLAS IOVINO / July 10, 2017

(CN) – California expects to make big bucks on recreational pot when sales begin next year, but not all cannabis farmers are embracing the state's proposed regulations with open arms.

"There's more money to stay on the black market," said Leo, a father of three who's been growing pot in Humboldt County for 18 years and asked only to be identified by his middle name. "Compliance is expensive."

Leo is not alone. Of the estimated 10,000 cannabis grow sites operating in Humboldt County last year, just over 2,300 farms and businesses applied for cannabis business permits the state requires to grow and sell marijuana legally starting in 2018.

"A number of existing cultivators who have been historically able to cultivate in the Emerald Triangle will either be forced to stop or elect to stop in the face of a regulatory environment," said Scott Davies, owner of Winterbourne Farms, one of the 2,300 properties in the process of getting a county permit.

When California voters [approved](#) Proposition 64 to legalize recreational pot for adults, many hailed it as a progressive step forward for the world's sixth largest economy. Legalization is expected to result in fewer drug arrests and criminal justice costs, \$1 billion in new tax revenue and a regulated industry that's better for the environment and safer for consumers.

But as the state races to get new rules in place by 2018, most pot growers in Humboldt County are already avoiding regulation. These farmers cite higher costs, burdensome rules, distrust of authority, uncertainty about still-unfinalized policies, and the ability to make more money by selling cannabis on the black market.

Operating outside the law is nothing new in Humboldt County, where longtime growers like Leo say they're used to being outlaws – a label many embrace as a

badge of honor.

"We sort of liked that outlaw, fringe-of-society mindset," Leo declared.

An Outlaw Community

Lined with gargantuan Redwood trees that stretch to the sky and hug the Pacific Ocean, Humboldt County makes up a third of Northern California's Emerald Triangle, the nation's largest marijuana-growing region. Some old timers have been growing here since the 1960s.

With a population of 135,000 hit hard by declines in its biggest job-producing sectors of timber, fishing and dairy, cannabis became a lifeline for this rural county's economy.

"This is what's kept this economy afloat," said Max Esdale, a Humboldt County native who grew up in a pot-producing family and now works for a cannabis technology firm. "Here in Humboldt County, we've managed to keep the standard of living because the cannabis industry has given people an avenue to supplement their income."

Transforming an established "outlaw community" into a law-abiding center of cannabis commerce is no easy task. The vast majority of marijuana grown in Humboldt and California goes to states where pot is illegal and dealers can earn double or more per pound.

California produces about 13.5 million pounds of weed each year and sends 11 million pounds – 81 percent – out of state, according to a January 2017 study by ERA Economics. New regulations will have little to no impact on the state's booming illegal export market, according to that study.

"We see nothing in the regulations that would incentivize illegal cultivators to exit the market," said Duncan MacEwan, who co-authored the 87-page analysis.

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Lt. Bryan Quennel of the Humboldt County Sheriff's Department said he wasn't surprised to hear predictions that new rules won't do much to curb the lucrative illegal export market.

"Marijuana always has been and always will be about making money," Quennel said. "If it's going to cost you money to get permits and you're not going to make the money, you won't get the permit."

In 2016, the county busted 91 illegal grow sites, seized nearly 85,000 pot plants, and confiscated almost 3,000 pounds of processed cannabis, according to Quennel.

The Sheriff's Department focuses on environmental crimes and trespass grows, he said. Such crimes include diverting water from streams, flattening out land and pushing dirt into waterways, clear-cutting trees, and squatting on public land. The department plans to keep targeting environmental rule breakers after new regulations take effect next year, Quennel said.

Onerous rules?

Small-scale pot farmers and their supporters say the state could do a lot more to incentivize outlaw farms to enter the legal market. During a June 1 meeting in Eureka on proposed cannabis regulations, one small-business advocate said California should take steps to distinguish micro-farmers from macro-farmers.

"The folks in the hills may be deterred from the cost of coming into compliance as it can cost thousands to tens of thousands of dollars," said Nicole Paul-Almand of AgDynamix, a Eureka-based cannabis consulting firm.

Last year, the Legislature and Gov. Jerry Brown approved a new specialty cottage permit for small pot farms of up to 25,000 square feet. But those farms must still comply with layers of rules, including submitting detailed site designs and cultivation plans, maintaining designated areas for chemical storage and plant destruction, and participating in the state's costly track-and-trace program.

The rules are intended to protect the environment, improve consumer safety and stop regulated pot from slipping into the black market. But Paul-Almand says the overall result is higher costs that deter small businesses from going legitimate.

"So much of this industry was founded on mom-and-pops," Paul-Almand said. "If they lose this business, where are they going to go?"

Esdale, who works for the cannabis technology firm Meadow, says moving too quickly from no regulation to "super-regulation" will put small growers out of business or push them to sell on the black market.

"It's looking kind of bleak if they can't find a way to accommodate smaller, less sophisticated operators," Esdale said.

Regulatory compliance will cost pot farmers \$60 to \$240 per pound, depending on the type of farm – indoor, outdoor or mixed light – according to the ERA Economics study. Those costs don't include taxes of \$146 per pound on dry marijuana flowers and \$44 per pound on dry leaves.

It's much easier for a bigger business to swallow those costs and still turn a profit, said MacEwan of ERA Economics.

"A large business can spread costs over a greater production volume," he said.

On top of compliance costs and taxes, farmers will also lose money from selling legal pot at a lower price, which is expected to drop by \$100 a pound due to increased supply and competition.

The net result is a challenging atmosphere for small growers to make money in California's regulated market. And for nearly all cannabis-farm license types, the benefits of selling pot legally won't outweigh the costs, according to a cost-benefit analysis conducted by ERA Economics.

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To make money in a regulated market, smaller businesses will have to scale up, produce more or invest heavily in unique branding and novel products to set themselves apart, according to industry experts.

"This could be a big impact on their livelihood and lives," said Erick Eschker, economics professor at Humboldt State University. "If they're going to stick around, they'd probably have to adapt, consolidate, be more efficient, hire different people and take on different skill sets. "

Distrust of Authority

Another reason most pot farmers in Humboldt County plan to avoid regulations is a deep-seated lack of trust in authority.

"People in this business do not trust the authorities because they've all been screwed over by the authorities," said "William," a 35-year-old cultivator who grew cannabis in a remote, mountainous part of Trinity County last fall.

In 2013, the Emerald Triangle county of Mendocino stopped issuing permits for pot farms after the federal government started targeting cultivators that registered with the county.

U.S. Drug Enforcement Administration agents raided the farm of the first person to register, Joy Greenfield, according to the Los Angeles Times. The county later went to court to block federal prosecutors from seizing records of farmers who applied for permits.

"Putting your neck out there" is what people call it, said Dean O'Neil, a former pot farmer who now sells growing equipment at North Coast Horticultural Supply in Arcata. "People worry about a noose around their neck."

Leo, who plans to continue his indoor growing operation in Humboldt County next year without a permit, said he and other farmers feel resentful about decades of targeting by law enforcement until the government started viewing them as "a revenue source."

"The same people that spent tens of millions of dollars going after us decide they want to tax us," Leo said, adding he finds the proposed tax rates unreasonably high compared to other agricultural products.

Is the Party Over?

For decades, Humboldt County pot farmers have grown marijuana in remote areas of the county – including on public lands – to avoid detection by authorities. That has led to a host of environmental [problems](#), including the diversion of water from streams, clear-cutting of trees, and the use of toxic chemicals that harm endangered wildlife.

The county launched a program last year to encourage pot growers to shut down farms in locations not properly zoned for agriculture. But a recent spike in land prices has made it all but impossible for small farmers to move to a permit-ready piece of land.

Larry Doss of Ming Tree Real Estate in Eureka says he's seen prices of permit-ready cannabis properties increase exponentially over the last year.

"It's probably in some cases as little as doubling the value on the small side. In some cases, four or five or six times more," Doss said, adding his firm sold one such property for \$7.6 million.

The cannabis property-listing website, [420property.com](https://www.420property.com), lists seven pieces of permit-ready land in Humboldt County ranging in price from \$900,000 to \$12 million.

Local residents, including Doss and O'Neil, tell stories of venture capitalists and "outsiders" swooping in to gobble up land in the hopes of cashing in on California's 21st century "Green Rush."

"Big money comes in and buys up everything," O'Neil said. "The people who built everything up get left in the dust."

Skyrocketing land prices, high compliance costs and a dim outlook for turning a profit in a regulated market present the toughest challenge yet to Humboldt County's small farmers, who have been growing weed for decades.

"The people who built up the value of this industry and actually created it are being forced out of it very quickly," Esdale said. "It's a sort of industrial gentrification."

Davies, owner of the permit-ready Winterbourne farms, said he understands the life-altering impact on those who can't make the transition, even though he's made big investments in a regulated future.

"It's not merely the loss of a job," Davies said. "It's more of an existential crisis and, for a lot of people, their identity as community members. If they're not cultivators, what are they going to do? A lot of painful transformation that is inevitable is part of this."

But on a business level, Davies also acknowledges that it's unfair for his 40-acre farm -- which has invested in solar panels and a 1 million-gallon pond -- to compete with black-market pot when selling to dispensaries. That's the way things are under existing medical marijuana laws.

"We're still competing with black-market producers who don't have the extra

costs," Davies said. "We're looking forward to the horizon."

Others say impacts on small farmers don't outweigh the benefits of regulation, including new tax revenue, safer products, environmental protection, and fewer drug arrests that disproportionately affect minorities.

Humboldt County is expected to bring in \$7.3 million in much-needed annual revenue by taxing newly permitted pot farms.

"Some people would say you've enjoyed good profits for decades. Maybe the party is over," Humboldt State University's Eschker said, adding that every legitimate business, from a bicycle shop to grapefruit grower, has to follow rules and pay taxes.

While many farmers might be excluded from selling pot legally in California next year, the market for selling it illegally across state lines is not expected to wane.

As long as Uncle Sam deems marijuana an illegal, Schedule 1 drug under the Controlled Substances Act, black market demand for Emerald Triangle pot will remain strong, Leo said.

Still, the longtime pot grower predicts he and other outlaw farmers will eventually change their tune and embrace regulation. But for now, he's waiting to see how things play out for those making the leap to sell cannabis in California's nascent, multibillion regulated industry next year.

"I think we'll have to," Leo said of eventually complying with California's proposed cannabis rules. "The way things are trending, it seems inevitable."

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