



Written by [Alex Newman](#) on October 15, 2012

Voters in 3 States May Nullify Fed. Drug Laws by Legalizing Marijuana

Voters in Colorado, Oregon, and Washington State will vote on proposals next month to nullify [unconstitutional](#) federal statutes by legalizing marijuana for recreational use, setting up a potential showdown between the Obama administration and state governments that could increase interest in the U.S. Constitution's Tenth Amendment. While the fate of Oregon's measure remains uncertain, polls suggest Amendment 64 in Colorado and Initiative 502 in Washington State may well pass.



By allowing legal cannabis for medical purposes, at least 17 states, including the three voting on full legalization in November, have already [nullified federal drug statutes](#) purporting to criminalize marijuana under all circumstances. More than half-a-dozen other states are currently considering similar measures, too, often with the backing of law enforcement groups and doctors.

However, the U.S. government has so far largely refused to respect states' sovereignty on the issue. President Obama, [despite his campaign promises to not waste Justice Department resources persecuting medical marijuana patients and their suppliers](#), is waging a fierce crackdown on the medical marijuana industry that in recent years has surpassed even the George W. Bush administration's efforts.

The controversy over state drug laws conflicting with federal statutes, however, has opened up a veritable can of worms. Amid an ongoing effort by state governments to rein in the unconstitutional usurpations of power by Washington, D.C. — everything from ObamaCare and Agenda 21 to the indefinite detention provisions of the National Defense Authorization Act (NDAA) have become targets of [nullification campaigns](#) — recent efforts to legalize marijuana could open a new front.

In 2008, even the American Civil Liberties Union [filed a lawsuit](#) against the U.S. government to stop its anti-medical marijuana campaign in California, correctly citing constitutional restrictions on federal power. The Tenth Amendment to the U.S. Constitution states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, or to the people." The ACLU is still involved in the fight.

Because the federal government has been delegated [no legitimate authority in terms of prohibition](#) — that's why a constitutional amendment was required to ban alcohol — experts say states are standing on solid ground. However, that does not mean that the Obama administration will not fight to stop voters from defying the federal government by legalizing marijuana, especially because it could pave the way for more nullification successes in the future.

Drug warriors including former DEA bosses and White House "drug czars" have [expressed vehement opposition](#) to the initiatives, urging President Obama — he has admitted consuming marijuana — to publicly speak out, partly because legalization would supposedly [violate United Nations treaties](#). So far,



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however, the administration, despite a ruthless war on medical cannabis in recent years that [drew bipartisan ire](#), has refused to comment on the upcoming legalization proposals.

If approved by voters, the full-legalization initiatives would allow adults over the age of 21 to legally purchase and consume small amounts of the controversial plant. Like alcohol, marijuana would be strictly regulated and heavily taxed, drawing complaints from some hard-core libertarians who say the schemes might even make the drug more expensive than on the black market. Still, the proposals have garnered widespread support from [across the political spectrum](#) as the drug war becomes increasingly unpopular. Recent polls in Colorado, for example, show [a majority of voters favor marijuana legalization](#).

Numerous law enforcement groups have rallied behind the initiatives as well. Leading the charge on that front is a non-profit organization made up of police officers, judges, prosecutors, correctional workers, and other criminal justice professionals known as [Law Enforcement Against Prohibition](#) (LEAP).

“We can expose the illogic of the current federal system, it is completely contradictory,” LEAP spokesman and former probation officer Matt McCally in Washington State told *The New American*, adding that federal prohibition falls flat on several levels. While the group advocates the legalization of all drugs for a multitude of reasons, ending the war on cannabis at the state level is believed to be a good start — McCally said marijuana was the most important battle simply because it is the most commonly used illegal substance.

Others in the state agreed that the time had come for new policies. “Everyone knows that marijuana prohibition has failed. When even those who once worked to enforce these laws are saying this, the only logical next step is to enact a system that legalizes, regulates and controls marijuana,” [said](#) former Seattle Police Chief Norm Stamper, who serves as a spokesman for LEAP. “Doing so will not only take money away from the [gangs and cartels that sell marijuana now](#), but will generate new, much-needed revenue that can be used to pay the salaries of police officers and teachers and for substance abuse prevention and education.”

In Colorado, a broad coalition of former lawmen has also recently [signed a letter](#) backing the state’s marijuana legalization initiative, known as Amendment 64. “After spending many, many years trying in good faith to enforce these marijuana prohibition laws, I can report unequivocally that they just don’t work,” said 36-year veteran Denver police lieutenant Tony Ryan, now a board member for LEAP. “But it’s worse than that. Beyond just being ineffective, these laws waste important law enforcement resources that could instead be going to things that actually protect public safety, like solving and preventing murders, rapes and robberies.”

Aside from LEAP, several minority-focused law enforcement groups [have also spoken out](#) in favor of the state initiatives. Former police officer Ron Hampton, executive director with Blacks in Law Enforcement of America, said his organization supports Amendment 64 because of the damage inflicted by the drug war on minority communities.

“Keeping these outdated prohibition laws on the books accomplishes nothing to reduce marijuana use, but it does cause incredible damage to our communities of color,” he explained. “Even though African Americans use marijuana at a rate virtually identical to that of whites, people from our community are arrested, sentenced and jailed at a much higher rate. Passing Amendment 64, while it won’t solve all our problems, is a great step toward ensuring equality for all under the law.”



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Anthony Miranda with the National Latino Officers Association echoed those concerns, adding that legalizing marijuana would help police stop real crimes by building trust in law enforcement among the community. “Right now, communities of color see the police as aggressors rather than as protectors,” he said. “People are unwilling to come to us, to give us information, even to report crimes, because they see us as the enemy. When Amendment 64 passes, we’ll be one step closer to rebuilding that community trust that allows us to effectively perform our jobs.”

Doctors have come out in favor of legalization, too. Bruce Madison, the associate medical director of the faculty at the University of Colorado School of Medicine, for instance, told the *Washington Post* that the war on marijuana has failed and that it was time to do something different. “As physicians, we have a professional obligation to do no harm,” he [explained](#). “But the truth is that the Colorado marijuana laws do just that, by wasting hundreds of millions of dollars in a failed war on marijuana, by ruining thousands of lives by unnecessary arrest and incarceration, and by causing the deaths of hundreds of people killed in black-market criminal activities.”

While pragmatic considerations seem to be driving most of the support for marijuana legalization, the constitutional issues have proven to be of great interest to Americans concerned about never-ending federal expansion. If the initiatives are approved, numerous analysts have speculated that the Obama administration would attempt to mount some sort of challenge — especially because of the broader implications for the [nullification movement](#).

Several reports have improperly claimed that federal statutes would supersede state law in these cases. However, none of those analyses mentioned that the U.S. government has no constitutional authority to legislate on such matters and that [nullification](#) has historically been used to stop federal power grabs — most notably, perhaps, when the U.S. government tried to force states to return fugitive slaves to their masters. Wisconsin just said no.

[Pro-Tenth Amendment](#) activists say the time to rein in Washington, D.C., is long overdue. If any of the state marijuana legalization initiatives are approved, voters can likely expect an exciting battle that could eventually pave the way toward restoring proper constitutional limits on the federal government. It seems that change may be coming, just not the type Obama envisioned on the campaign trail.

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