

Michigan Court Prohibits Sale of Illegal Marijuana in a Ruling Straight Out of “Duh” Magazine

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Believe it or not, I actually spend a lot of time deciding whether something is worth taking the time to write about. Cannabis news is developing as rapidly as any area of the law, and there are only so many hours in a day. I'll admit up front that this was a close call.

There could be some angle that I'm not quite getting that would allow for unlicensed marijuana sales in states that have adopted marijuana licensing regimes, but I'm leaning towards thinking this may be one of the silliest, most obvious cases I've seen in years (and I see some wild cases in this line of work).

From our friends at [Law360](#):

A Michigan appeals court has ruled that, notwithstanding the state's legalization of recreational marijuana, prosecutors can still pursue a case against a person charged with selling large amounts of the drug outside the state's regulated marketplace.

A three-judge panel for the state's intermediate court of appeals determined that the pot legalization statute, the Michigan Regulation and Taxation of Marijuana Act, did not bar prosecutors from trying to stamp out illicit cannabis, since reining in the unlicensed market was part of the goal of regulating pot sales.

“The act is also intended to prevent the diversion of marijuana into illicit markets,” Judge James Robert Redford said in a published decision Monday. “Possession with intent to deliver large quantities of marijuana for compensation and outside of state regulation implies an illicit dealing for profit or a contribution to the illicit market. Such conduct subverts the express purpose of the act.”

The case has its roots in an October 2022 raid on defendant Julia Soto's Niles, Michigan, home, where officers seized 20 pounds of marijuana and ultimately charged her with possession with intent to deliver and maintaining a drug-involved house.

Soto sought to suppress the evidence and dismiss the charges in 2023, saying Michigan's 2018 pot legalization law barred prosecutors from pursuing an intent to deliver marijuana

charge as a felony. The circuit court denied her motion, teeing up the appeal before Michigan's intermediate appellate court.

Because every now and then common sense prevails, the court rejected Soto's argument. The court noted (1) that one of the key goals of Michigan's adult-use statute was to "prevent the diversion of marihuana to illicit markets" and (2) that allowing prosecution of bulk possession of marijuana would produce "bizarre outcomes" inconsistent with legalization. In adopting this plain language interpretation of the statute, the court noted, "[i]t is axiomatic that the plain language of the statute is the most reliable evidence of the electorate's intent and it is not this court's place to make judgments about the wisdom of the act."

The Takeaways

Marijuana is a business rife with inherent risks – legal, safety, and otherwise. It is one of the most tightly regulated industries in the country, and it is important to follow the rules closely. This case flies in the face of those notions. For comparison, do you think it would be acceptable to open a bar in your dining room – where customers paid you for the drinks in your liquor cabinet – without a license or insurance simply because your state allowed licensed establishments to sell alcohol? Of course not. Jeez, we can look to [Jim Carrey](#) to offer legal advice on this point.

Secondly, a very good colleague who is far too esteemed to name in a measly cannabis blog, often reminds me that the first rule of being smart is not being stupid. Cases like this don't do any favors for responsible cannabis operators. They make the whole industry look shady, irresponsible, and unwilling to follow the rules.

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