U.S. attorney general vows to vigorously enforce' federal laws against marijuana

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SACRAMENTO, Calif. -- SACRAMENTO, Calif. - The Obama Administration has joined California's historic debate over legalizing marijuana, vowing to "vigorously enforce" federal laws against pot even if state voters approve a Nov. 2 initiative legalizing its use for recreational purposes.

General Eric Holder said prosecution of marijuana crimes is a "core priority" of the Department of Justice and would remain so regardless of whether Proposition 19 passes.

It was the first time Holder explained the position his department would take if the recreational use initiative becomes state law.

"Let me state clearly that the Department of Justice strongly opposes Proposition 19," Holder said in the letter, dated Wednesday. "If passed, this legislation will greatly complicate In a letter to former drug enforcement administrators made public Friday, U.S. Attorney federal drug enforcement efforts to the detriment of our citizens."

Proponents of Proposition 19 said Holder was "posturing."

"The reality is that the federal government has neither the resources nor the political will to undertake sole - or even primary - enforcement responsibility for low level marijuana offenses in California," said Stephen Gutwillig, California director of the Drug Policy Alliance, in a statement. "Well over 95 percent of all marijuana arrests in this country are made by state and local law enforcement."

California became the first state in the nation to authorize medical marijuana with Proposition 215 in 1996; since then, 13 other states and the District of Columbia have followed suit.

The Bush and Clinton administrations took enforcement actions against medical marijuana sellers and users after Proposition 215 passed, and the U.S. Supreme Court in 2005 ruled that federal officials could prosecute medical marijuana activities regardless of state legalization.

But the Obama administration last year said it would not prosecute medical marijuana in states where it is legal.

Vikram Amar, associate dean for academic affairs at the University of California, Davis School of Law, said the Obama administration clearly wanted to make a statement on recreational use before the November election.
"I think (Holder) is really trying to send a message that the earlier policy with respect to medicinal marijuana should not be confused with the policy on recreational marijuana," Amar said.

Proposition 19 would make California the first U.S. state to authorize marijuana use for recreational purposes. The initiative would allow adults 21 years or older to use or grow limited amounts of marijuana. It would also allow local governments to tax and regulate the commercial sale of marijuana.

Supporters have suggested that the legalization of recreational marijuana use would bolster cash-strapped governments in California and reduce costs for law enforcement and corrections.

Holder issued his memo in response to a letter sent in August by nine former administrators of the U.S. Drug Enforcement Agency urging him to take a stance on Proposition 19.

The former DEA officials said, "It is unlikely that any taxes will be paid, for doing so would admit criminal violation of federal law and expose the seller to federal prosecution."

Amar agreed with that assessment. He said until the federal government decides it will not prosecute recreational use, few people would opt to sell openly.

"To pay taxes, you have to report the transaction," Amar said. "By reporting the transaction, you are giving the federal government documentary evidence that you are violating the law. The federal government doesn't even have to work to prosecute you."

Alex Kreit, a professor at the Thomas Jefferson School of Law in San Diego and a proponent of Proposition 19, said that might be true initially. But he said the medical marijuana law has shown that it is possible to generate tax revenues in the long run.

"The experience with medical marijuana indicates that enforcement is not as effective in long term, unless the DEA wants to stop going after meth dealers and shift to people operating marijuana coffee shops," Kreit said.

The nonpartisan Legislative Analyst's Office said it is difficult to determine how much governments could generate from the measure because it is difficult to predict how extensively the federal government will enforce its prohibition and what impact the initiative will have on the use and price of marijuana. The LAO said revenues could be "in the hundreds of millions of dollars annually."

The analyst said Proposition 19 could result in several tens of millions in incarceration savings, as well as savings from court and law enforcement costs. But there could also be higher costs for taxpayer-funded drug treatment programs.

In his letter, Holder contended the initiative would hurt the federal government's enforcement efforts against other drug crimes.

"The broad language of Proposition 19 that would prohibit state and local law enforcement from seizing marijuana that is in compliance with state law would provide a significant impediment to these joint efforts by law enforcement to target drug traffickers who frequently distribute marijuana alongside cocaine and other controlled substances," Holder wrote.
Kreit disagreed with that argument. He said local authorities would be able to regulate and control recreational marijuana use - and that federal officials could still work with local law enforcement on illegal drug crimes.

A Field Poll last month found that 49 percent of voters supported Proposition 19, while 42 percent opposed the measure. It has significant support among those younger than 40 and residents in the San Francisco Bay Area and Los Angeles.

"This latest statement from the Obama administration is going to give many voters who may be undecided pause about supporting this initiative," said Roger Salazar, a spokesman for opponents of Proposition 19.