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Ban on state aid to federal marijuana cops proposed

By Joe Szydowski

“It’s an interesting (proposed) law, what they’re trying to do. It’s basically like passive resistance. It’s not directly at odds with federal law, we just won’t cooperate,” he [Joseph Tully] said. “Officials would not be able to prosecute anyone who’s acting lawful under state law. It’s not trying to invalidate federal law, it’s saying we will use no resources, no personnel to support you in enforcement where people are acting lawful under the state rules.”

Less than a week before the White House hinted at new operations targeting recreational marijuana Thursday afternoon, several California legislators have already submitted a bill to bar any state or local help to those operations.

White House Press Secretary Sean Spicer’s comments on Thursday that “greater enforcement” of federal marijuana laws against recreational marijuana with no elaboration shook the marijuana industry in California, which legalized recreational marijuana in November via the ballot measure Proposition 64.

But those federal agents also rely on state and local authorities to aid their work, such as a jail to house suspects, a fact several Democratic state lawmakers are trying to use to thwart federal intervention in California’s developing legal recreational marijuana marketplace.

Six legislators have introduced

AB 1578, which would bar state and local police, sheriffs and other law enforcement agencies from helping federal investigations into marijuana activities, and any help to “investigate, detain, detect, report, or arrest a person” suspected of them, that are legal under state law unless compelled by a court order.

“It’s a no-snitch policy,” said Joseph Tully, a defense attorney who has been involved in several major marijuana cases here and elsewhere, including defending James Benno in his current trial. “If people are obeying the laws of the state of California, law enforcement which hates the cannabis laws we have now can’t snitch someone out to the feds.”

Redding police Chief Rob Paoletti, Anderson police Chief Michael Johnson and the Shasta County District Attorney’s Office did not return calls seeking comment Friday.

Shasta County Sheriff Tom Bosenko cautioned that the law still has a long path with many possible changes to it before it would even approach the governor’s desk — it hasn’t even been brought before a full committee after being introduced a week ago.

Whether it can get there isn’t clear either, he said.

“It’s more of the liberal California legislators trying to

restrain law enforcement from doing their jobs,” Bosenko said.

Nonetheless, his office will follow state law, he said.

“The federal government is still allowed to enforce federal law. If this became law, we would not be able to assist,” he said, cautioning that it would also have to stand up to constitutional muster in court.

But what aid would be prohibited is cloudy, such as what actions the term “detain” would cover, Bosenko said. In law enforcement, it can have several meanings, ranging from simply stopping a possible witness to incarceration.

Detain, however, would cover housing suspects at the local jail, Tully said. Its “elegant” design also means it probably would survive lawsuits challenging its constitutionality, he said.

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Tully’s biggest concern about the bill is it needs teeth, he said.

“If an official wants to be vindictive, we can’t prosecute it under state law, but I’ll turn it over to the feds,” Tully said. “They could be the snitch and the whole hole in this whole thing.”

While it doesn’t limit law enforcement covered to just police and sheriffs, Bosenko said the bill didn’t specify, as members of law enforcement, counties’ district attorneys, who can pass along cases to the federal government if a federal violation occurred.

Tully acknowledged that would be another loophole to circumvent the point of the bill, though a court would likely find the bill’s language includes DA offices.

“(They) could but, for God’s sake, a DA’s office is by its very nature a law enforcement agency,” he said.

The bill may go before the committee March 21.

A spokeswoman with the U.S. Attorney’s Office for the Eastern District of California declined to comment Thursday about Spicer’s statement and pending legislation. ■