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Mexico Enacts Law Decriminalizing Possession Of Small Amounts Of Narcotics

by LADB Staff

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Mexico has enacted a law decriminalizing possession of small amounts of narcotics while promoting efforts for addicts to obtain treatment. The controversial legislation, which went into effect upon its publication in the federal register (*Diario Oficial de la Federacion*) in late August, is intended to free up law-enforcement agencies from prosecuting small-scale users and concentrate instead on the larger war on drugs.

Additionally, the change would create more space in Mexico's prison system for dangerous criminals. But critics say the law will make an already difficult problem worse and is inconsistent with the government's war against drug traffickers. The new drug law had been the subject of intense debate since 2006, when former President Vicente Fox first introduced the initiative. The Congress actually voted in favor of the bill, but Fox vetoed the legislation under US pressure (*SourceMex*, May 10, 2006). President Felipe Calderon and the Mexican Congress revived the issue in 2009 (*SourceMex*, April 22, 2009). The 2006-2009 Congress approved a bill before concluding its term this summer.

Under the new law, police will no longer bring charges against anyone caught with small amounts of cocaine (half a gram), marijuana (5 grams), heroin (50 mg), methamphetamines (40 mg) and LSD (0.015 mg). Anyone caught with more than the specified amounts will be considered in violation of Mexico's drug-trafficking laws. The law gives the governments of Mexican states and Mexico City a year to adjust their legal statutes to conform to these reforms. They have as long as three years to implement the necessary operational and structural changes.

Mexico now has one of world's most liberal drug laws

Easing restrictions on what is known in Mexican law-enforcement circles as "narcomenudeo" means that Mexico now has one of the world's most liberal laws for drug users. The new policy is also in keeping with trends in other Latin American countries, which have eliminated penalties for drug consumption. Brazil, Uruguay, and Argentina no longer send small-scale drug users to prison, even though consumption is still illegal in Brazil. Colombia has decriminalized possession of marijuana and cocaine, but penalties remain in place for other drugs.

The new legislation requires that anyone caught with drugs for a third time be forced to undergo free treatment for drug addiction. As part of this plan, the measure pushes for creating modern government-sponsored centers to provide treatment and rehabilitation for addicts. As of yet, no money has been allocated for the new centers. In addition, the Secretaria de Salud (SSA) was directed to create a national campaign to discourage and treat drug addiction. The Calderon administration had pressed for a measure that would have required prison for anyone who failed

to follow through with treatment. But the version approved by Congress contains no sanctions for those who fail to comply. Administration officials said the program would put a new focus on the government's war against drugs. "With this reform we will make the combined capability of enforcement against this crime a legal and operational reality," Attorney General Eduardo Medina-Mora told participants at a recent conference of state prosecutors. Other officials at the Procuraduria General de la Republica (PGR) emphasized that the new policy does not constitute legalization but an effort by authorities to implement more efficient regulation.

Critics cite inconsistency in drug war

The new law is not universally supported, with critics citing inconsistencies. "This is a legal instrument that is not consistent with the fight against organized crime," said former Deputy Enrique Cardenas de Avellano, who served in the recently completed 2006-2009 session of Congress. "There are many contradictions in this law, which was not put together properly," said Cardenas, a member of the opposition Partido Revolucionario Institucional (PRI) who voted against passage of the legislation. "You cannot on one hand prohibit drug trafficking and on the other allow consumption of narcotics." Cardenas' view coincides with the positions of many in the addiction-treatment community. "With everything that's happening, we need to distance ourselves from drugs," said Luis Manuel Delgado, assistant director at a drug-treatment center in Tijuana.

Delgado, a recovered addict, said his center's job would become more difficult. "Imagine if I told the people in here that it was now legal for them to have a little. No way." Some advocates believe the law was approved without much thought on the treatment options. "This [law] was passed quickly and quietly but it's going to have to be adjusted to match reality," said Juan Martin Perez, director of El Caracol, an agency that helps street children with all sorts of problems, including addictions.

US officials remain concerned that Mexico's more open policy on drug possession could encourage more US citizens to travel there for the sole purpose of consuming drugs. "Now they will go because they can get drugs," San Diego Police Chief William Lansdowne told the Associated Press. "For a country that has experienced thousands of deaths from warring drug cartels for many years, it defies logic why they would pass a law that will clearly encourage drug use." But Don Thornhill, a former supervisor for the US Drug Enforcement Administration (DEA), said he is not worried that US citizens will rush into Mexico to consume drugs. He suggested that the drug-related violence that prevails in Mexico would probably discourage many US citizens from traveling to that country. Thornhill endorsed the new law, saying the change in policy allows Mexico's law-enforcement agencies to put greater resources into prosecuting "the bigger fish."

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