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Artículos Científicos

El ente garante de la regulación jurídica del cannabis en México

The guarantor entity of legal regulation of cannabis in Mexico

O garante da regulamentação legal da cannabis no México

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Resumen

Este análisis aborda el sistema jurídico del cannabis en México estableciendo la naturaleza jurídica del ente garante y las facultades del Instituto Mexicano de Regulación y Control del Cannabis (IMRCC). Se compara la propuesta de política en México con la Ley de Reglamentación e Impuestos de Cannabis del estado de Illinois, Estados Unidos. Lo anterior con el fin de relacionar, describir y explicar la problemática del fenómeno social del consumo con una política prohibitiva absoluta contradictoria al derecho fundamental al libre desarrollo de la personalidad. Como parte de las conclusiones se propone una serie de medidas que deberán ser puestas en práctica para cristalizar el derecho fundamental al libre desarrollo de la personalidad y dar solución positiva, legal y constitucional al fenómeno social analizado.

Palabras clave: cannabis, ente público, México, regulación.

Abstract

This analysis addresses the legal system of cannabis in Mexico establishing the legal nature of the guarantor entity and the powers of the Instituto Mexicano de Regulación y Control del Cannabis (IMRCC). It compares the policy proposal in Mexico with the Cannabis Regulation and Tax Act of the state of Illinois of the United States of America. This in order to relate, describe and explain the problems of the social phenomenon of consumption with an absolute prohibitive policy contradictory to the fundamental right to the free development of personality. As part of the conclusions, a series of measures are proposed that must be put into practice to crystallize the fundamental right to free development of personality and provide a positive, legal and constitutional solution to the social phenomenon analyzed.

Keywords: cannabis, public entity, Mexico, regulation.

Resumo

Esta análise aborda o Sistema jurídico da cannabis no México, estabelecendo a natureza jurídica da entidade garante e os poderes do Instituto Mexicano de Regulação e Controle da Cannabis (IMRCC). A proposta de política no México é comparada com a Lei de Regulamentação e Impostos de Cannabis do estado de Illinois, Estados Unidos. O exposto, a fim de relacionar, descrever e explicar os problemas do fenômeno social do consumo com uma política proibitiva absoluta, contraditória ao direito fundamental, o livre desenvolvimento da personalidade. Como parte das conclusões, propõe-se uma série de medidas que devem ser postas em prática para cristalizar o direito fundamental ao livre desenvolvimento da personalidade e fornecer uma solução positiva, legal e constitucional para o fenômeno social analisado.

Palavras-chave: cannabis, entidade pública, México, regulamentação.

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Introduction

Beyond the proposed law that proposes the creation of the Mexican Institute for the Regulation and Control of Cannabis (IMRCC), there is no history in Mexico of an organism with such purposes, so when this is approved, a previously untraveled path would begin. . This proposal, with which the health control of cannabis for personal, scientific and commercial use is intended, was presented on November 18, 2018.

The present analysis addresses a social phenomenon of public health from the facet of legal sciences, and answers the following questions: what is the legal nature of the entity that guarantees the regulation and control of cannabis? What are its powers? And what are its similarities and differences with that of another country? Thus, objectives are established to determine the legal nature of the entity that guarantees the regulation and control of cannabis and establish its powers by correlating it with that of another nation. To do this, a qualitative and quantitative approach is used, with an investigative, descriptive, correlational and explanatory scope, using as the guiding thread of the investigation the organism that will be responsible for regulating and controlling cannabis in Mexico.

The following is established as a hypothesis:

H1. The creation of a guarantor entity that legally regulates cannabis in Mexico will contribute and positively impact the objective of establishing a constitutional and legal legal structure that serves as a regulatory framework for the development of activities related to this social phenomenon in our country.

The development and conclusions reached are based on premises stipulated in the Political Constitution of the United Mexican States, jurisprudence, secondary laws, doctrine, statistical data on the phenomenon under study and the binational comparison; all this, of course, from the deductions and inductions of the authors. As it is an innovative topic in Mexico, this study aims to define and, at the same time, invite to inquire about it, in order to achieve a policy that crystallizes the fundamental right to free development of personality, counting on the existence of the entity that guarantees the legal regulation of cannabis in Mexico.

Legal nature of the IMRCC

The federal public administration in the United Mexican States is divided, for its exercise, into centralized and parastatal. The centralized one is integrated by the Office of the Presidency of the Republic, the secretariats of State, the Legal Department of the Federal Executive and the coordinated regulatory bodies. The parastatal is made up of decentralized agencies, state participation companies, national credit institutions, national auxiliary credit organizations, national insurance and surety institutions, and trusts.

The IMRCC will be a decentralized body of the federal public administration in charge of the Ministry of Health. Its mission will be to regulate, regulate, monitor, sanction and evaluate the cannabis regulatory system. And its constitutional source as a public entity is found in the Political Constitution of the United Mexican States (Chamber of Deputies of the H. Congress of the Union, 1917). There the following is established:

The Federal Public Administration will be centralized and parastatal in accordance with the Organic Law issued by Congress, which will distribute the businesses of the administrative order of the Federation that will be in charge of the Secretaries of State and will define the general bases of creation of the parastatal entities and the intervention of the Federal Executive in its operation (Cámara de Diputados del H. Congreso de la Unión, 1917, art. 90).



The Organic Law of the Federal Public Administration (Official Gazette of the Federation [DOF], December 29, 1976) originates from the aforementioned number. In its articles 3 and 17 are the legal bases for the existence of decentralized organizations such as the IMRCC. The first of them indicates: "The Executive Power of the Union, will be assisted under the terms of the corresponding legal provisions, from the following entities of the parastatal public administration, decentralized bodies" (DOF, December 29, 1976). The second states:

For the most effective attention and efficient dispatch of matters within their competence, the Secretaries of State may have decentralized administrative bodies that will be hierarchically subordinate to them and will have specific powers to resolve on the matter and within the territorial scope determined in each case. , in accordance with the applicable legal provisions (DOF, 29 de diciembre de 1976, art. 17).

Serra (2013) maintains that the parastatal public administration is made up of the set of institutions, organizations, mixed economy companies, public assets, which, by provision of the law, collaborate in the relationship of the purposes of the State, without being part of the centralized public administration , with which they maintain strict relations of control and surveillance in charge of it, and divided into sectors for this purpose.

The Second Chamber of the Supreme Court of Justice of the Nation (2013) defines the legal nature of decentralized bodies (thus including the IMRCC) through the thesis cited below:

This Supreme Court of Justice of the Nation has determined that decentralized bodies, located within the parastatal public administration, outside the centralized public administration, are entities created by law or decree of the Congress of the Union or by decree of the Federal Executive, with Legal personality and own assets. Likewise, it has maintained that said parastatal entities, for the full fulfillment of their object and of the objectives and goals indicated in their programs, enjoy management autonomy, as well as having an administration in charge of a governing body, which must issue the organic statute, and of a general director, who has the legal representation of the organism, being so, as an entity with its own legal personality, it is different from that of the "President", "President of the Republic", "Federal Executive"

or "Executive Power of the Union", which although it is in charge of developing the administrative function of the Mexican State in the federal order, intervening together with its dependencies, establishing policies for the achievement of the objectives and priorities of national planning of development and objectives, the truth is that its relations with decentralized organizations are subject to what is established by the Federal Law on Parastatal entities (regulation of article 90 of the Political Constitution of the United Mexican States) and its specific regulatory provisions. Consequently, given their hierarchical autonomy, decentralized agencies are not subordinate to the President of the Republic, since he exercises only mediate and indirect control, while the relationship of direct hierarchy in the parastatal public administration does not exist with the Power. Executive (párr. 1).

The Federal Law of Parastatal Entities (DOF, January 26, 1990) is intended to regulate the organization, operation and control of parastatal entities of the federal public administration. Likewise, it indicates that the relations of the Federal Executive, or its dependencies, with parastatal entities, as auxiliary units of the federal public administration, will be subject, in the first place, to the provisions of this same law, and its regulatory provisions and , only in the unforeseen, to other provisions according to the corresponding matter.

De Pina García, de Pina Vara and de Pina (2012), in their Law Dictionary, define the legal nature of decentralized bodies:

Institutions created by provision of the Congress of the Union, or where appropriate by the Federal Executive, with their own legal personality and assets, whatever the legal structure they adopt, are considered as such; Decentralized bodies are the legal entities created pursuant to the provisions of the Organic Law of the Federal Public Administration and whose purpose is: 1. The carrying out of activities corresponding to the strategic or priority areas; 2. The provision of a public or social service; and, obtaining or applying resources for assistance or social security purposes (p. 391).

Hamdan (2016), on the other hand, it defines the decentralized organisms establishing that in the internal organization of the State Secretariats they have areas of decision, supervision, evaluation, administrative, operative; They have legal personality and their own

assets. The Federal Executive, in exercise of its powers to create bodies subordinate to the Secretariats of State, distributes the competence that corresponds to each body and corresponds to it. Hamdan (2016) affirms that technically the word decentralization points to something leaving the center towards the periphery, relaxing its link with centralized administration. In addition, it maintains that the decentralized organisms are created by law of the Congress of the Union, despite the fact that the Organic Law of the Federal Public Administration indicates that they can be created by the Federal Executive Power.

From the above premises, it follows that the guarantor entity to be titled IMRCC will belong to the Ministry of Health; However, a contradiction is observed by virtue of the fact that the bill proposes that it belong to the Ministry of the Interior, due to the great importance and impact it will have on the sectors that actually address this issue. It is considered that the entity must be integrated by three dependencies: the first to guarantee the health variables, the second, the Federal Commission for the Protection against Sanitary Risks (Cofepris), to establish the administrative policies for the regulation of the psychotropic and the third, the Ministry of the Interior, for security issues.

The powers of the IMRCC

Due to the transcendence, importance, risk and social impact that this phenomenon has in Mexican society, the IMRCC will require that it be given powers empowered by law and based on constitutional principles, in order to operate and realize the fundamental right that it must crystallize. Sánchez Cordero and Monreal Ávila (Thursday, November 8, 2018) maintain that among these, they must have a sanctioning, training, supplier, registry, permit transfer, scientific investigation, and tax determination faculty, establishing the skills to transportation, points of sale, packaging characteristics, as well as authorizing the operation of each of the phases that will make up the system.

In their initiative with a draft decree, both senators maintain that the prohibitionist policy that Mexico adopted has generated two consequences that account for its failure: that of violence in all corners of the country and the criminalization of vulnerable sectors due to related activities with cannabis. They cite that there are scientific studies that show that the negative effects of cannabis are less and less dangerous to health than other authorized drugs,

so the initiative proposes a responsible regulation model that is appropriate to the Mexican reality that opts for change (Sánchez and Monreal, Thursday, November 8, 2018).

In addition, the initiative proposes an absolute prohibition on any type of link or activity of minors with cannabis and describes the powers of the IMRCC in the following terms.

- 1) The power to sanction people who drive vehicles below THC levels higher than those established;
- 2) Provide training, advice and the necessary supplies to the officials designated to carry out the control procedures and methods;
- 3) Keep the anonymous register of cannabis plants for personal consumption;
- 4) Grant permits to attend more than 20 plants for individual health use;
- 5) Create a research protocol for the scientific use of cannabis;
- 6) Determine the taxes on the purchase and sale of cannabis;
- 7) Establish the provisions for the transport of cannabis and its derivatives for therapeutic use;
- 8) Determine the points of sale of cannabis and its derivatives for palliative purposes;
- 9) Establish the provisions for the transport of drugs derived from cannabis;
- 10) Approve the characteristics of the packages of cannabis and its derivatives;
- 11) Determine the points of sale of cannabis and its derivatives for adult use;
- 12) Authorize the sowing, cultivation, harvesting, preparation, manufacture, production, distribution and sale of cannabis for industrial purposes (Sánchez y Monreal, jueves 8 de noviembre de 2018).

Illinois state cannabis regulations and taxes

Background

Illinois joined the American Union on December 3, 1818 and over time it has become one of the most prosperous states in the American nation. It currently has a population of around 13 million inhabitants and has been characterized as an innovative entity in many areas of the country's public, political and economic life (Universal Free Encyclopedia in Spanish, s. F.).

Like most states in the American Union, Illinois had prohibitive and penalizing



legislation on the production, consumption, and commercialization of drugs and drugs, including the most widely used, cannabis. It was until the current governor, Democrat Jay Pritzker, presented an initiative to the House of Representatives and the Illinois Senate to legalize the recreational use of marijuana for people over the age of 21 from January 1, 2020. With 64 votes In favor and 47 against, said normative provision was approved by the state senate and promulgated by Governor Pritzker on June 25, 2019. Thus, Illinois became the eleventh state of the United States nation to legalize recreational cannabis use.

Integrity factors and transversality of the law

The Illinois Cannabis Tax Regulations and Law (Illinois House Bill 1438) is an example of comprehensiveness and transversality, since its content reflects an analysis, interpretation and understanding of the regulatory framework and administrative structures existing in the state of Illinois, which positions it as one of the most comprehensive legal systems in the field of cannabis legalization in the United States.

We fully understand the incorporation and merger of regulatory schemes and administrative structures (public administration) to achieve a common goal: to provide legal certainty and administrative efficiency to the process of legalizing recreational cannabis use. This merger guarantees, then, a very well-defined government strategy for the cultivation, commercialization and legal consumption of cannabis through the design and implementation of an innovative model in which all sectors are taken into account.

Regarding transversality, a fundamental element for the design and implementation of public policy models, this law defines in an orderly and coherent way the function that each state agency must carry out within the scope of their respective competences so that, at the moment from the beginning of the law, there is an ideal scenario so that all the actors that are part of this process have an adequate delimitation of the scope, rights and obligations that this legal norm grants them.

The incorporation of precepts in the law, related to the shared authority between the various government agencies, and the clear definition regarding issues such as social equity in the cannabis industry, personal use of cannabis, licensing and regulation of dispensing organizations, centers of cultivation for adults, transportation organizations and testing laboratories guarantees the transparency and accessibility of the rules for all sectors participating in this process, allowing to move gradually but firmly from a stage of



criminalization to another of decriminalization of cannabis use with the intention to detonate Illinois social, industrial and economic development factors.

Structure of the law

Tabla 1. Estructura integral y transversal de la Ley de Reglamentación e Impuestos de Cannabis de Illinois

Artículo	Tema	Secciones	Sumario
Artículo 1	Recomendaciones y definiciones	Secciones 1-1 a 1-10	Reglamento de Cannabis y Ley Fiscal
Artículo 5	Autoridad	Secciones 5-5 a 5-45	Autoridad compartida: <ul style="list-style-type: none"> • Departamento de Agricultura; • Departamento de Regulación Financiera y Profesional; • Departamento de Salud Pública; • Departamento de Servicios Humanos; • Oficial de Supervisión de Regulación de Cannabis de Illinois.
Artículo 7	Equidad social en la industria de cannabis	Secciones 7-1 a 7-30	Recomendaciones: <ul style="list-style-type: none"> • Fondo de negocios para el desarrollo de cannabis; • Préstamos y subvenciones a solicitantes de equidad social; • Exenciones de cuotas; • Transferencia de licencia otorgada a solicitante de equidad social; • Informes.
Artículo 10	Uso personal de cannabis	Secciones 10-5 a 10-50	<ul style="list-style-type: none"> • Uso personal de cannabis, restricciones en el cultivo y multas; • Personas menores de 21 años;

			<ul style="list-style-type: none"> • Identificación, falsa identificación y multas; • Inmunidades y presunciones relacionadas por compra de cannabis, para su uso; • Prohibición de la discriminación • Limitaciones y multas; • Restaurar, reinvertir y renovar el programa; • Empleo y responsabilidad del empleador.
Artículo 15	Licencias y regulación de organizaciones dispensadoras	Secciones 15-5 a 15-175	<p>Autoridad:</p> <ul style="list-style-type: none"> • Exención de la organización dispensadora de cannabis medicinal; • Aprobación temprana de licencia de organización dispensadora de uso de adultos; • Responsabilidad financiera; • Administración; • Agentes a cargo; • Requerimientos de almacenaje; • Requerimientos de operación; • Seguridad; • Destrucción y disponibilidad de cannabis; • Investigación; • A partir del 1 de enero de 2022 el Departamento Licencias deberá modificar cualquier tarifa establecida en este artículo.
Artículo 20	Centros de cultivo para adultos	Secciones 20-1 a 20-50	<ul style="list-style-type: none"> • Emisión de licencias. A partir del 1 de julio de 2021, el Departamento

			de Agricultura podrá cambiar el número de licencias para centros de cultivo.
Artículo 25	Programa piloto vocacional de cannabis de la universidad comunitaria	Secciones 25-1 a 25-20	Definiciones: <ul style="list-style-type: none"> • Administración; • Emisión de licencias de programas piloto vocacionales de cannabis en colegios comunitarios; • Programa pilotos vocacionales de cannabis en colegios comunitarios: requerimientos y prohibiciones.
Artículo 30	Arte de cultivo	Sección 30-3 a 30-50	Emisión de licencias: <ul style="list-style-type: none"> • Solicitud; • Aplicación de puntuación; • Denegación de solicitud; • Requisitos para productor artesanal.
Artículo 35	Organizaciones de infusión	Sección 35-3 a 35-40	Definiciones: <ul style="list-style-type: none"> • Emisión de licencias; • Solicitud; • Denegación de solicitudes; • Tarjeta de identificación de agente.
Artículo 40	Organización para transportación	Secciones 40-1 a 40-35	Definiciones: <ul style="list-style-type: none"> • Emisión de licencias; • Solicitud; • Emitiendo licencias; • Denegación de solicitudes; • Requisitos de la organización de transporte; • Tarjeta de identificación del agente de transportación; • Verificación de antecedentes de la

			organización de transporte.
Artículo 45	Aplicación e inmunidades	Secciones 45-5 a 45-20	<ul style="list-style-type: none"> • Suspensión de licencias, revocación y otras multas; • Inmunidades y presunciones relacionadas con el manejo de cannabis por establecimientos comerciales de cannabis y sus agentes; • Normas estatales y requisitos; • Violación de las leyes fiscales; rechazo, revocación o suspensión de la licencia o tarjeta de identificación del agente.
Artículo 50	Pruebas de laboratorio	Sección 50-5	Única.
Artículo 55	Disposiciones generales	Secciones 55-5 a 55-95	<ul style="list-style-type: none"> • Preparación de productos con infusión de cannabis; • Mantenimiento de inventario; • Destrucción de cannabis; • Publicidad y promoción.
Artículo 60	Impuesto de privilegio de cultivo de cannabis	Secciones 60-1 a 60-45	<p>Este artículo puede ser referido como <i>Ley de Impuestos de Privilegio de Cultivo de Cannabis</i>:</p> <ul style="list-style-type: none"> • Impuesto; • Registro de cultivadores; • Devolución y pago del impuesto por cultivo de cannabis.
Artículo 65	Impuesto especial al comprador de cannabis	Secciones 65-1 a 65-50	<p>Este artículo puede ser referido como <i>Ley de Impuestos Especiales del Comprador de Cannabis</i>.</p>
Artículo 900	Disposiciones y enmiendas	Secciones 900-5 a 900-50	La Ley de Procedimiento Administrativo de Illinois.

			Se modifican diversos artículos y secciones.
Artículo 999	Disposiciones y misceláneas	Secciones 999-95 y 999-99	Sin aceleración o retraso: Donde esta ley realiza cambios en un estatuto que está representado en esta por texto que aún no está vigente o ya no está vigente (por ejemplo, una sección representada por varias versiones), el uso de ese texto no acelera ni retrasa los efectos de los cambios realizados por esta Ley o disposiciones derivadas de cualquier otra ley pública.

Fuente: Elaboración propia con base en Illinois General Assembly (2019a)

Relevant points of the law

From the analysis of the results in Table 1, it was determined that the police focus on violent and property crimes that have an impact on the reduction of income destined to topics such as education, prevention and treatment of substance abuse, so from This initiative will free up resources to invest in communities and other public purposes, which is why cannabis use is legalized in the state of Illinois (Illinois General Assembly, 2019a). In addition, according to the amendment that modifies House Bill 1438 (Illinois General Assembly, 2019b):

- a) Cannabis will be regulated in a similar way to that of alcohol;
- b) Consumption only over 21 years;
- c) Payment of taxes similar to those of alcohol;
- d) Selling, transferring or distributing cannabis to minors remains illegal;
- e) Deletion of criminal records for minor crimes of this nature;
- f) Cannabis for recreational use may be purchased from certified dispensaries;
- g) The law stops punishing violators, therefore, those who cultivate without permission will only receive a fine of \$ 200;
- h) Of the tax revenue generated by the marketing of cannabis, 35% will go to the General State Fund;



- i) Advertising on cannabis use near schools, playgrounds, public transport and any type of advertising aimed at minors is prohibited by law.

The objectives and powers of the IMRCC

The objectives of the IMRCC should be aimed at guaranteeing the public health approach, to heal the problems of the analyzed phenomenon, the activities of the system, security measures, surveillance, actions to reduce the risks and damages associated with the use of cannabis, evaluate the regulation that is established and disseminate information about the system.

- 1) It will have to create the regulation that guarantees the approach of public health, reduction of risks and damages related to the consumption of cannabis;
- 2) It must regulate the planting, cultivation, harvesting, transportation, storage, production, processing, distribution, commercialization, sale and sale of cannabis;
- 3) Apply security measures and sanctions for the assurance of products that are harmful or lack the basic requirements;
- 4) Assess the regulation of cannabis uses.

Similarly, the powers of the IMRCC must be established to establish the guidelines for licenses, grant licenses and extensions for personal, medicinal and commercial purposes, implement affirmative measures, apply administrative sanctions, conduct scientific research, establish anonymous registration. of self-producers, create the register of cooperatives, authorize the import and export of cannabis, control statistical and personal information and issue its organic status.

Results

Below are some data from the National Survey on the Consumption of Drugs, Alcohol and Tobacco (Encodat) 2016-2017 (National Commission against Addictions, 2017). Drug use: global prevalences, trends and state variations.

Main results. Data:

- 1) Total population (12-65 años):
 - a) 10.3% have used any drug at some time in their life; 2.9% did so in the last year (2.5 million) and 1.5% in the last month.



- b) 9.9% have used illegal drugs at some time in their life (15.8% men and 4.3% women); 2.7% have consumed them in the last year (4.4% men and 1.1% women) and 1.4% in the last month (2.6% men, 0.4% women).
- c) 8.6% have used marijuana at some time in their lives, 2.1% in the last year (1.8 million) and 1.2% in the last month.
- d) The age of onset of drug use is 17.8 years (men 17.7 and women 18.2).
- 2) Adolescent population (12-17 años):
- a) 6.4% have ever used any drug, 3.1% have done so in the last year (437,000) and 1.2% in the last month.
- b) 6.2% have ever used illegal drugs (6.6% men and 5.8% women), 2.9% in the last year (3.4% men and 2.3% women) and 1.2% have done it in the last month (1.7% men, 0.7% women).
- c) 5.3% have ever used marijuana; in the last year 2.6% have consumed marijuana (373,000); in the last month, 1.1% have used marijuana.
- 3) Adult population (18-65 años):
- a) In the population aged 18 to 34 years (in this group is the highest global prevalence of consumption):
- i. 15% have used any drug at some time in their life (22.8% men, 7.6% women).
 - ii. 5% have used any drug in the last year (8.2% men, 2.0% women).
 - iii. 2.7% have used any drug in the last month (4.8% men and 0.7% women).
 - iv. 14.5% have ever used illegal drugs (22.6% men and 7% women).
 - v. 4.6% have used illegal drugs in the last year (7.8% men and 1.6% women).
 - vi. 2.5% have used illegal drugs in the last month (4.6% men, 0.6% women).
 - vii. Marijuana and cocaine are the most preferred drugs (12.8% and 5.2% respectively for sometime, 3.5% and 1.5% in the last year and 2% and 0.8% respectively for the last month).

- b) In the population aged 35 to 65:
- i. The prevalence of ever consuming any drug is 7.5% (13.8% men and 1.8% women), while the prevalence of illegal drugs is 7% (13.4% men and 1.3% women).
 - ii. The prevalence of any drug in the last year is 1% (1.8% men and 0.3% women) and that of illegal drugs is 0.8% (1.6% men and 0.1% women).
 - iii. In the last month, the prevalence of consumption of any drug is 0.6% (1.2% men and 0.2% women) and that of illegal drugs is 0.5% (1% men and <0.1% women).

Trends in consumption:

- 1) Total population (12-65 años):
 - a) The prevalence of any drug ever increased from 7.8% in 2011 to 10.3% in 2016.
 - b) The prevalence of illegal drugs once increased from 7.2% to 9.9%.
 - c) The prevalence of marijuana ever went from 6% to 8.6%.
- 2) Adolescent population (12-17 años):
 - a) The prevalence of illegal drugs ever increased significantly from 2.9% to 6.2%.
 - b) Marijuana increased significantly both in consumption once from 2.4% to 5.3%.
- 3) Adult population (18-65 años):
 - a) In the population aged 18 to 34 years:
 - i. The prevalence of consumption of any drug ever increased from 11.3% in 2011 to 15% in 2016
 - b) In the population aged 35 to 65:
 - i. The consumption of any drug ever went from 6.4% to 7.5% and the consumption of illegal drugs ever went from 5.7% to 7% from 2011 to 2016.

- 4) State variations:
- a) Jalisco (15.3%), Quintana Roo (14.9%) and Baja California (13.5%) report the highest percentages of consumption of any illegal drug ever in the population aged 12 to 65, with respect to the national prevalence (9.9%).
 - b) In the last year, only Baja California (4.4%) has a higher percentage than the national (2.7 %).

With the statistical data that is cited, the increasing trend of cannabis use is demonstrated, so it can be affirmed that it is an unavoidable social phenomenon for science. In addition, the consumption of minors of this psychotropic is striking, for which it is argued that the prohibitionist policy existing in Mexico has not positively addressed the phenomenon under analysis, since it is a public health problem; the fact that minors consume it, consequently, the proposal of the new regulatory policy must be with an absolute prohibition for them, that is, minors.

Discussion

The attractive book by Serra (2013) has served as a guide: in one of the sections, he maintains that the parastatal public administration is made up of the set of institutions, organizations, mixed economy companies, and public assets that, by law, collaborate in the relation of the ends of the State. And of course the suggestive statement of Sánchez and Monreal (November 8, 2018) in which they maintain that among the IMRCC faculties it must have a sanctioner, training, supplier, registry, transfer of permits, scientific research, tax determination; From the foregoing, it is observed that the guarantor entity under study, whether it belongs to the centralized public administration or belongs to the decentralized one (once the law is approved, it will be corroborated), must necessarily have the aforementioned powers. The foregoing was analyzed using it as a common thread, however, this research does not escape the difficulty of accessing first-hand sources (such as key informants) as it is a subject with many taboos or because of the prohibitive policy to date, considering as one of its strengths how new it will be in Mexico. Also, to be able to put as object of study the legal norm that regulates, already without limitation, for scientific research.

Conclusions

The guarantor of the legal regulation of cannabis in Mexico must be a decentralized body of the federal public administration, made up of members of the Ministry of Health, Cofepris and the Ministry of the Interior, which is part of the parastatal public administration with legal personality and own assets, in addition to providing management autonomy. It will be in charge of regulating, regulating, monitoring, sanctioning and evaluating the cannabis regulatory system; Its constitutional origin is found in Article 90 of the Mexican Constitution and its secondary source is in Articles 3 and 17 of the Organic Law of the Federal Public Administration (DOF, December 29, 1976), so it must create for its internal operation their own legal systems.

The IMRCC will require that it be empowered with powers strengthened by law and based on constitutional principles, in order to operate and realize the fundamental right that must be crystallized. These faculties must have a sanctioning, training, supplier, registry, permit transfer, scientific research, tax determination faculty, establishing transportation skills, points of sale, packaging characteristics, as well how to authorize the operation of each of the phases that will make up the system; all this emphasizing the absolute prohibitionist policy to any type of link or activity of minors with cannabis.

For the sake of an international comparison, the Illinois Cannabis Tax and Regulation Law of the United States was analyzed, which contains similarities and differences with respect to the proposed law in Mexico. Among the first was its administrative structure compared to the IMRCC, which will be a decentralized body. Regarding the latter, he highlights that it is a tax law when establishing taxes on the cannabis system; In Mexico, the IMRCC will only determine the payment of rights, since the establishment of taxes is reserved constitutionally to the Chamber of Deputies of the Congress of the Union.

From the aforementioned statistics, the reason or the justification for research on this phenomenon is based, since it follows the increasing trend of consumption of this psychotropic, even more so by minors. Thus, it is affirmed that the prohibitionist policy currently in force in Mexico has not given a positive response to this social phenomenon, so progress must be made towards a new legal regulation of cannabis in Mexico that gives rise to the guarantor entity to crystallize the fundamental right to free development of the personality of all Mexican individuals.

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