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Section: Editorial

Hazy business practices State should move to discourage sneaky, premature marijuana sales

The "wink-and-a-nudge" business model is never stable and particularly unwanted when it comes to devious marijuana sales. While those transactions may or may not be legal, the state is correct: By skating on the edge, these businesses should forfeit their future ability to sell marijuana legally. To that end, some kind of official citation is important – criminal or administrative – to identify unscrupulous operators.

The state should be prompt as diligence allows in writing a clear and enforceable law governing the legal sales of marijuana. Until then, gambits such as those outlined in a recent News story are inevitable.

Some shop owners have decided to crawl through what they see as a legal loophole in order to make a "gift" of marijuana to customers. The "gift" is only given after a customer buys a sometimes expensive sticker. Some of these stickers are bright, colorful and even playful.

As Stephen T. Watson wrote, stores such as Green Vision Wellness, which operates four locations in Erie and Niagara counties, claim the transactions are legal because they have found this loophole in New York marijuana regulations. The state Office of Cannabis Management disagrees. The agency insists that "gifting" is an illegal sale and recently sent cease-and-desist letters to businesses engaged in the practice.

Despite the interpretation, the fact is these businesses are treading on thin ice, including those engaging in this slippery practice on federally recognized tribal territory. They feign shock when their stores are raided and their employees are placed in handcuffs.

An employee at the Green Vision Wellness in Amherst explained how the operation works: Customers buy stickers for a price between \$10 and \$300 and get a commensurate quantity of marijuana for "free." The maneuver has been used for several years in states where recreational marijuana is legalized or decriminalized, but awaiting the establishment of legal retail sales. If New York didn't see it coming, someone wasn't minding the state's own store.

The ultimate solution is to finish the work of enacting a law governing pot sales, but that work is proceeding at a snail's pace. Stores are unlikely to open for business before 2023, according to Patrick Hines, who heads the cannabis and hemp practice area for the Hodgson Russ law firm in Buffalo.

Store operators use a flimsy legal interpretation that the law allows adults over 21 to "gift" less than 3 ounces of marijuana or 24 grams of concentrated cannabis to another adult. Hence, the word game ensues with customers looking for "stickers."

Erie County District Attorney John Flynn, whose office cooperates with the state to investigate complaints about marijuana sales, does not believe "gifts" among adults is a criminal matter.

But the Office of Cannabis Management considers any monetary transaction for marijuana to be an illegal sale and it should plan to sideline businesses that play this greedy game.

---- **Index References** ----

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