



Yakama Nation fighting marijuana in 10 counties

JANUARY 13, 2014 3:30 PM • [THE DAILY NEWS AND AP](#)

The Yakama Indian Nation is moving to ban marijuana in all 10 counties of its ancestral lands, covering one-fifth of the Washington's land mass.

In the wake of the state's legalization on recreational pot use, the tribe has already banned marijuana on its 1.2 million acre reservation near Yakima.

The Yakima Herald-Republic reported that under the Yakama Treaty of 1855 with the federal government, the tribe was allowed to maintain fishing, hunting and food-gathering rights on more than 12 million acres of its historic lands that were ceded to the United States. Now they want to use those rights to include a ban on marijuana on all ceded lands.

The treaty does not affect the Cowlitz Tribe, which, nevertheless, will ban marijuana from any of its buildings or property, Chairman Bill Iyall said Monday.

The tribe will follow federal law, which still bans recreational marijuana use or possession. Much of the tribes funding comes from the federal government, Iyall noted, so tribal leaders don't want to jeopardize that by violating federal laws.

The Cowlitz don't have reservation land, so tribal leaders haven't made the same large-scale ban claim the Yakamas have, Iyall said. That said, he said tribal leaders have been following the Yakama decision and he thinks its a good one.

"I understand the sovereignty of the Yakama nation, and I think they're taking the right approach and trying to be protective of their people," he said.

Yakama tribal chairman Harry Smiskin said, "We're merely exercising what the (1855) treaty allows us to do, and that is prevent marijuana grows (and sales) on those lands."

The tribe expects to file more than 600 objections with the state and federal governments against marijuana license applicants in the 12 million-acre area, tribal attorney George Colby said. About 300 of those complaints already have been filed.

"To my knowledge, this would be the first time" the tribe has sought to prevent the implementation of a state law on all ceded land, Colby said.

The ceded land runs from the Columbia River on the Oregon border to all of Chelan County in the north, and from the eastern slopes of the Cascades to as far west as parts of Whitman County. The area encompasses the cities of the Yakima Valley, plus Wenatchee, Ellensburg, Goldendale and Pasco.

Colby and Smiskin draw comparisons to the tribe's long fight to keep alcohol off the reservation. They say the tribe has had an equally unpleasant history with marijuana use.

“Aside from the taxation of marijuana, I don’t see any benefits from it,” Smiskin said.

In addition to the ban on marijuana businesses, it also remains illegal to possess marijuana for personal use on the Yakama reservation.

In addition to the treaty, Colby said the fact that marijuana remains illegal under federal law also entitles the Yakama tribe to challenge it on ceded lands.

But the author of the 2012 voter-approved initiative that legalized marijuana, Alison Holcomb, said she doesn’t see a legal basis for the tribe’s opposition to marijuana businesses on ceded lands.

“I think they run into the issue of not having standing to, in essence, bring suit on behalf of the federal government,” said Holcomb, the criminal justice director of the American Civil Liberties Union Washington chapter. “The federal government at this time has shown it has no intention of trying to stop the law.”

In August, the U.S. Justice Department sent a memo to Washington and Colorado saying it would not stop the implementation of laws legalizing the recreational use of marijuana.

In October the state Liquor Control Board established a rule that it would not issue a marijuana license to any business located on federal lands, such as an Indian reservation, a federal park or military installation. The rule does not address ceded lands, and on Friday a spokesman said the agency wasn’t ready to comment on that issue.