
HOUSE CONCURRENT RESOLUTION

URGING THE DEPARTMENT OF HEALTH TO REQUEST ACKNOWLEDGMENT FROM
THE DRUG ENFORCEMENT ADMINISTRATION THAT HAWAII'S MEDICAL
CANNABIS PROGRAM IS EXEMPT FROM FEDERAL CONTROLLED
SUBSTANCE REGULATIONS.

1 WHEREAS, the authority to decide the medical use of
2 substances scheduled according to the federal Controlled
3 Substances Act (CSA) is reserved to the states; and
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5 WHEREAS, the United States Supreme Court confirmed this
6 authority when it found in *Gonzales v. Oregon*, 546 U.S. 243
7 (2006), that "[t]he Attorney General has rulemaking power to
8 fulfill his duties under the CSA. The specific respects in
9 which he is authorized to make rules, however, instruct us that
10 he is not authorized to make a rule declaring illegitimate a
11 medical standard for care and treatment of patients that is
12 specifically authorized under state law."; and
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14 WHEREAS, title 21 Code of Federal Regulations section 903
15 gives states the authority to regulate laws not in conflict with
16 federal law; and
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18 WHEREAS, Hawaii lawfully exercised this authority when it
19 enacted Act 228, Session Laws of Hawaii 2000, and created a
20 state-regulated medical use of cannabis program; and
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22 WHEREAS, the United States Department of Justice and the
23 Drug Enforcement Administration (DEA) have never challenged the
24 constitutionality of Hawaii's Medical Cannabis Program; and
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26 WHEREAS, Hawaii never intended to create a positive
27 conflict with federal law, as referenced in title 21 United
28 States Code section 903; and
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H.C.R. NO. 126

1 WHEREAS, the DEA has the authority to recognize exemptions
 2 for legal uses of controlled substances, such as the exemption
 3 from Schedule I applicable to the nondrug use of peyote by the
 4 Native American Church under title 21 Code of Federal
 5 Regulations section 1307.31, and the ability to apply for a
 6 controlled substance exception under title 21 Code of Federal
 7 Regulations section 1307.03; and

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 9 WHEREAS, the perceived conflict that exists between
 10 Hawaii's Medical Cannabis Program and federal controlled
 11 substances laws is causing numerous unintended consequences that
 12 are harming Hawaii's lawful medical cannabis patients; and

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 14 WHEREAS, a federal scheduling exemption for the medical use
 15 of cannabis in Hawaii is needed to remove the false perception
 16 that Hawaii's Medical Cannabis Program is violating federal law;
 17 now, therefore,

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 19 BE IT RESOLVED by the House of Representatives of the
 20 Thirtieth Legislature of the State of Hawaii, Regular Session of
 21 2020, the Senate concurring, that the Department of Health is
 22 urged to request acknowledgment from the federal government,
 23 consistent with title 21 Code of Federal Regulations section
 24 1307.03, that Hawaii's Medical Cannabis Program is exempt from
 25 federal controlled substance regulations; and

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 27 BE IT FURTHER RESOLVED that certified copies of this
 28 Concurrent Resolution be transmitted to the Governor, Lieutenant
 29 Governor, Attorney General, Director of Health, Director of
 30 Public Safety, and Director of Transportation.

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OFFERED BY: 


