
HOUSE 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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30 WHEREAS, the DEA has the authority to recognize exemptions
31 for legal uses of controlled substances, such as the exemption



1 from Schedule I applicable to the nondrug use of peyote by the
 2 Native American Church under title 21 Code of Federal
 3 Regulations section 1307.31, and the ability to apply for a
 4 controlled substance exception under title 21 Code of Federal
 5 Regulations section 1307.03; and

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

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

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

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

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OFFERED BY:

Rocky

[Signature]

Basil Kobayashi

John M. [Signature]

