

FEB 27 2020

---

## SENATE 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 RESTRICTIONS.

1           WHEREAS, the authority to decide the medical use of  
2 substances scheduled according to the Controlled Substances Act  
3 (CSA) is reserved to the states; and  
4

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  
13

14           WHEREAS, Hawaii lawfully exercised this authority when it  
15 enacted Act 228, Session Laws of Hawaii 2000, and created a  
16 state-regulated medical use of cannabis program; and  
17

18           WHEREAS, the United States Department of Justice and the  
19 Drug Enforcement Administration (DEA) have never challenged the  
20 constitutionality of Hawaii's Medical Use of Cannabis program;  
21 and  
22

23           WHEREAS, Hawaii never intended to create a positive  
24 conflict with federal law, as defined in title 21 United States  
25 Code section 903; and  
26

27           WHEREAS, the DEA has the authority to recognize exemptions  
28 for legal uses of controlled substances as evidenced by the  
29 federal Schedule I exemption recognizing the use of peyote by  
30 the Native American Church according to title 21 Code of Federal  
31 Regulations section 1307.31, and by the application for  
32 controlled substance exemption that exists under title 21 Code  
33 of Federal Regulations section 1307.03; and  
34



# S.R. NO. 23

1           WHEREAS, the perceived conflict that exists between  
 2 Hawaii's Medical Use of Cannabis program and federal drug laws  
 3 is causing numerous unintended consequences that are harming  
 4 Hawaii's lawful medical cannabis patients; and

5  
 6           WHEREAS, a federal scheduling exemption for the medical use  
 7 of cannabis in Hawaii will remove the false perception that  
 8 Hawaii's Medical Use of Cannabis program is violating federal  
 9 law; now, therefore,

10  
 11           BE IT RESOLVED by the Senate of the Thirtieth Legislature  
 12 of the State of Hawaii, Regular Session of 2020, that the Hawaii  
 13 Department of Health is urged to request acknowledgment from the  
 14 federal government, consistent with title 21 Code of Federal  
 15 Regulations section 1307.03, that Hawaii's Medical Use of  
 16 Cannabis program is exempt from federal controlled substance  
 17 restrictions; and

18  
 19           BE IT FURTHER RESOLVED that certified copies of this  
 20 Resolution be transmitted to the Office of the Governor, Office  
 21 of the Lieutenant Governor, Department of the Attorney General,  
 22 Department of Health, Department of Public Safety, and  
 23 Department of Transportation.

24  
 25  
 26

OFFERED BY: 

  
  


  
  


