
HOUSE CONCURRENT RESOLUTION

URGING LAW ENFORCEMENT AGENCIES, AND ALL OTHER AGENCIES OF THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS, TO RECOGNIZE THAT ENFORCEMENT OF CANNABIS LAWS UNDER FEDERAL LAW IS A FEDERAL FUNCTION AND DECLINE TO WORK WITH FEDERAL AGENCIES IN ENFORCING FEDERAL LAWS WITH REGARD TO MEDICAL CANNABIS USE ALLOWED IN HAWAII.

1 WHEREAS, while the use of medical marijuana, also known as
2 medical cannabis, has long been touted as a method of treating
3 or alleviating the pain or other symptoms associated with
4 certain debilitating illnesses, it was not until 2000 that the
5 legal use of medical cannabis was allowed in Hawaii after years
6 of discussion and debate; and

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8 WHEREAS, although qualifying individuals were legally able
9 to use medical cannabis in 2000, many of these individuals found
10 it difficult to obtain medical cannabis, particularly if they
11 were unable to grow their own supply, which created a need for a
12 regulated, statewide dispensary system to assist qualifying
13 individuals in obtaining the medical cannabis necessary to
14 alleviate their pain and suffering; and

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16 WHEREAS, in 2015, the legislature worked diligently to
17 craft legislation regulating the distribution of medical
18 cannabis in Hawaii, placing numerous safeguards in the
19 legislation to prevent the diversion of medical cannabis for
20 illegal use; and

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22 WHEREAS, in 2017, two years after passage of Hawaii's
23 medical cannabis dispensary law, the first medical cannabis
24 dispensaries began to open and operate in Hawaii; and

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26 WHEREAS, although states adopted medical cannabis laws,
27 cannabis remained illegal under federal law, and these states



1 found themselves at a crossroads with the federal government
2 when it came to strict enforcement of federal cannabis laws
3 under the Uniform Controlled Substances Act (CSA), 21 USC §801,
4 et seq.; and

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6 WHEREAS, in an attempt to address this issue, Attorney
7 General James M. Cole issued a memorandum in 2013 to all United
8 States Attorneys, known as the Cole Memorandum, which was
9 published by the Department of Justice, and in part stated that
10 if states implemented a strict, regulatory framework that
11 employed a seed-to-sale tracking system to monitor the growth,
12 distribution, and sale of regulated cannabis to prevent
13 diversion and created a transparent, accountable market, the
14 federal government would not focus on prosecution of cases
15 involving legal cannabis distribution and use; and

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17 WHEREAS, the Executive Branch of the federal government has
18 recently rescinded all memoranda regarding the federal
19 prosecution of cases involving the violation of federal cannabis
20 laws, including the Cole Memorandum, and is now threatening
21 prosecution of cannabis users and industries created in states
22 where cannabis is legally allowed; and

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24 WHEREAS, in December 2014, the United States Congress
25 enacted a rider in an omnibus appropriations bill funding
26 section 538 of the 2015 Appropriations Act, now known as the
27 Rohrabacher-Blumenauer amendment, which prohibited funds made
28 available to the United States Department of Justice to be used
29 against certain states, including Hawaii, to prevent
30 implementation of individual state laws that authorize the use,
31 distribution, possession, or cultivation of medical marijuana
32 and has enacted short-term measures extending that amendment;
33 and

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35 WHEREAS, in the United States of America v. McIntosh, et
36 al., 833 F.3d 1163 (9th Cir. 2016), the appellate court
37 determined that the Department of Justice's spending of federal
38 funds to prosecute individuals for engaging in conduct allegedly
39 permitted by states' medical marijuana laws was spending federal
40 funds to prevent those states from giving practical effect to
41 their medical marijuana laws in violation of the rider attached
42 to appropriation acts; and



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1 WHEREAS, after the government shutdown, on January 22,
2 2018, the House of Representatives passed H.R. 195, making
3 further continuing appropriations for the fiscal year ending
4 September 30, 2018, thereby temporarily continuing the
5 Rohrabacher-Blumenauer amendment as part of budget negotiations
6 until a vote is taken by the end of the day on February 8, 2018;
7 and

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9 WHEREAS, the fate of extending the protection of the
10 Rohrabacher-Blumenauer amendment is still uncertain, and the
11 Executive Department has rescinded the Cole Memorandum; and

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13 WHEREAS, the United States Supreme Court has held that the
14 federal government may not compel states to enact or administer
15 a federal regulatory program in Printz v. United States, 521
16 U.S. 898, 117 S. Ct. 2365, 138 L.Ed.2d 914 (1997); and New York
17 v. United States, et al., 505 U.S. 144, 112 S. Ct. 2408, 120
18 L.Ed.2d 120 (1992); and

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20 WHEREAS, federal law enforcement agency actions, including
21 prosecution, against medical cannabis users and the medical
22 cannabis industry in Hawaii, including the newly opened medical
23 cannabis dispensaries, would be an injustice to both the users
24 of medical cannabis who have been waiting for years for relief
25 from pain and suffering and the dispensaries who have invested
26 millions of dollars to comply with stringent state requirements;
27 and

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29 WHEREAS, every effort should be made to assist the users of
30 medical cannabis, who have been patiently waiting for the legal
31 distribution of medical cannabis, in receiving the help they
32 need to alleviate their pain and suffering; now, therefore,

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34 BE IT RESOLVED by the House of Representatives of the
35 Twenty-ninth Legislature of the State of Hawaii, Regular Session
36 of 2018, the Senate concurring, that law enforcement agencies,
37 and all other agencies of the state or any of its political
38 subdivisions, are urged to recognize that enforcement of
39 cannabis laws under federal law is a federal function and
40 decline to work with federal agencies in enforcing federal laws
41 with regard to medical cannabis use allowed in Hawaii; and



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1 BE IT FURTHER RESOLVED that law enforcement agencies, and
 2 all other agencies of the State or any of its political
 3 subdivisions, are also urged to refrain from expending taxpayer
 4 revenues for any law enforcement activities that work in
 5 collaboration with federal law enforcement agencies to enforce
 6 federal laws with regard to medical cannabis use which has been
 7 legalized in Hawaii; and

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 9 BE IT FURTHER RESOLVED that certified copies of this
 10 Concurrent Resolution be transmitted to the Attorney General of
 11 the United States, the Director of the Federal Bureau of
 12 Investigation, the Administrator of the United States Drug
 13 Enforcement Agency, the Governor, the Attorney General, the
 14 Director of Public Safety, the mayor of each county, the
 15 prosecuting attorney of each county, the chief of police of each
 16 county, and Hawaii's congressional delegation.

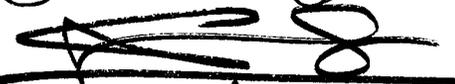
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