
HOUSE 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
28 found themselves at a crossroads with the federal government
29 when it came to strict enforcement of federal cannabis laws



1 under the Uniform Controlled Substances Act (CSA), 21 USC §801,
2 et seq.; and
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4 WHEREAS, in an attempt to address this issue, Attorney
5 General James M. Cole issued a memorandum in 2013 to all United
6 States Attorneys, known as the Cole Memorandum, which was
7 published by the Department of Justice, and in part stated that
8 if states implemented a strict, regulatory framework that
9 employed a seed-to-sale tracking system to monitor the growth,
10 distribution, and sale of regulated cannabis to prevent
11 diversion and created a transparent, accountable market, the
12 federal government would not focus on prosecution of cases
13 involving legal cannabis distribution and use; and
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15 WHEREAS, the Executive Branch of the federal government has
16 recently rescinded all memoranda regarding the federal
17 prosecution of cases involving the violation of federal cannabis
18 laws, including the Cole Memorandum, and is now threatening
19 prosecution of cannabis users and industries created in states
20 where cannabis is legally allowed; and
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22 WHEREAS, in December 2014, the United States Congress
23 enacted a rider in an omnibus appropriations bill funding
24 section 538 of the 2015 Appropriations Act, now known as the
25 Rohrabacher-Blumenauer amendment, which prohibited funds made
26 available to the United States Department of Justice to be used
27 against certain states, including Hawaii, to prevent
28 implementation of individual state laws that authorize the use,
29 distribution, possession, or cultivation of medical marijuana
30 and has enacted short-term measures extending that amendment;
31 and
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33 WHEREAS, in the United States of America v. McIntosh, et
34 al., 833 F.3d 1163 (9th Cir. 2016), the appellate court
35 determined that the Department of Justice's spending of federal
36 funds to prosecute individuals for engaging in conduct allegedly
37 permitted by states' medical marijuana laws was spending federal
38 funds to prevent those states from giving practical effect to
39 their medical marijuana laws in violation of the rider attached
40 to appropriation acts; and



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

19
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, that law enforcement agencies, and all other agencies
37 of the state or any of its political subdivisions, are urged to
38 recognize that enforcement of cannabis laws under federal law is
39 a federal function and decline to work with federal agencies in
40 enforcing federal laws with regard to medical cannabis use
41 allowed in Hawaii; and



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

8
 9 BE IT FURTHER RESOLVED that certified copies of this
 10 Resolution be transmitted to the Attorney General of the United
 11 States, the Director of the Federal Bureau of Investigation, the
 12 Administrator of the United States Drug Enforcement Agency, the
 13 Governor, the Attorney General, the Director of Public Safety,
 14 the mayor of each county, the prosecuting attorney of each
 15 county, the chief of police of each county, and Hawaii's
 16 congressional delegation.

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OFFERED BY:




Brend Kobayashi






