

SJR 20: FEDERAL COMPLIANCE WITH STATE MEDICAL CANNABIS LAW

AUTHORED BY SENATOR CAROLE MIGDEN

PURPOSE

SJR 20 urges the President and Congress of the United States to enact legislation requiring federal law enforcement to respect state medical marijuana laws, to cease raids of medical marijuana dispensaries that are operating legally under California and local law, and to return any assets seized from medical marijuana dispensaries and collectives to the states in which they are located.

EXISTING LAW

In 1996, California voters passed Proposition 215, The Compassionate Use Act “to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes.” Proposition 215 also encourages “federal and state governments to implement a plan for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.”

In 2003, SB 420 (Vasconcellos) was signed into law to address issues that had arisen following the passage of Proposition 215, including the establishment of a qualified patient’s right to access medicine through collectives and cooperatives.

Eleven other states - Alaska, Colorado, Hawaii, Maine, Montana, Nevada, New Mexico, Oregon, Rhode Island, Vermont, and Washington - have enacted laws, similar to California’s Compassionate Use Act, that

effectively remove state-level criminal penalties for cultivation and possession of medical marijuana.

In 2005, the United States Supreme Court granted authority in *Gonzales v. Raich*, for the Drug Enforcement Administration (DEA) to arrest and prosecute medical marijuana patients. While the Court provided enforcement discretion to the federal government, it refused to overturn any state’s medical marijuana law.

Also, in 2005, the California Appellate Court ruled in *People v. Urziceanu* that SB 420 intended to protect dispensaries that operate collectively or cooperatively. Both SB 420 and the California Appellate Court ruling laid the framework for protection of medical marijuana dispensaries and improved access for the more than 200,000 patients throughout the state.

PROBLEM

Despite California’s medical marijuana law and widespread recognition of the legality of medical marijuana dispensaries, the Drug Enforcement Administration, with support from the United States Department of Justice, has conducted over 100 raids and shut down countless medical marijuana dispensaries in California, since 2005.

Not only are raids on licensed, law-abiding businesses harmful to patients in need of

their medicine, but raids are also harmful to California taxpayers. Most, if not all, of the dispensaries raided by the DEA collect and pay sales tax to the State Board of Equalization. Many of these facilities also report and pay income tax to the California Franchise Tax Board and the federal Internal Revenue Service. In fact, the federal seizure of assets from medical marijuana dispensaries threatens an estimated \$100 million in sales tax annually.

In July 2007, the DEA expanded its tactics to undermine state law, adopting a cynical new tactic, which included the dissemination of more than 300 threatening letters to property owners who serve as landlords for medical marijuana dispensaries. The letters warned landlords that they could be criminally prosecuted and their property could be seized if they continued to lease to medical marijuana dispensaries. As a result, the DEA has forced dozens more facilities to close, further undermining the implementation of state law.

SOLUTION

SJR 20 affirms California's medical marijuana law and the distribution system it has put into place. SJR 20 formally memorializes that position and frames the issue of medical marijuana as a state issue, the implementation of which should be addressed by local and state governments. SJR 20 also urges the federal government to pass legislation that respects the rights of Californians and ceases unnecessary and harmful DEA tactics, such as raids and asset seizures.

WHAT SJR 20 DOES

- Sends a message to Congress and the President that Californians are best equipped to deal with the implementation of their state medical marijuana law.
- Recognizes the efficacy of medical marijuana and the plight of medical marijuana patients and their providers, and asks the federal government to take action to protect safe access to their medicine.

WHAT IT DOESN'T DO

- It in no way prevents the federal government from enforcing marijuana laws against individuals that are not qualified patients or primary caregivers.
- It does not force elected officials or law enforcement to violate state or federal law.