

Introduced by Senator Leno

June 8, 2009

Senate Joint Resolution No. 14—Relative to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

SJR 14, as introduced, Leno. Medical marijuana.

This measure would urge the President and Congress of the United States to take specified actions relating to the use of marijuana for medical purposes.

Fiscal committee: no.

1 WHEREAS, In 1996, California voters approved Proposition
2 215, the Compassionate Use Act, to exempt patients and caregivers
3 from certain criminal penalties when they possess or cultivate
4 marijuana for medical use to treat the symptoms of HIV/AIDS,
5 cancer, multiple sclerosis, chronic pain, and other serious
6 conditions, as recommended by a physician; and

7 WHEREAS, The California State Legislature subsequently
8 enacted the Medical Marijuana Program to further the will of the
9 voters by facilitating the registration of qualified patients and their
10 caregivers through a statewide identification system whereby a
11 patient with an identification card and the patient's designated
12 primary caregiver are exempt from arrest for possession,
13 transportation, delivery, or cultivation of marijuana for medical
14 use; and

15 WHEREAS, In enacting the Medical Marijuana Program, the
16 California State Legislature expressly stated its intent to enhance
17 the access of patients and caregivers to medical marijuana through
18 collective, cooperative cultivation projects, and to address

1 additional issues that were not included in the Compassionate Use
2 Act and that needed to be addressed to promote the fair and orderly
3 implementation of that act; and

4 WHEREAS, Most of California's legal patients cannot or will
5 not cultivate their own medicinal marijuana, but rely instead on
6 hundreds of lawful medical marijuana dispensing collectives and
7 cooperatives for safe and reliable access to their medicine; and

8 WHEREAS, Dozens of cities and counties have adopted
9 regulations for medical marijuana collectives and cooperatives,
10 which has served to reduce crime and complaints associated with
11 those organizations; and

12 WHEREAS, As affirmed by the California Court of Appeal,
13 Third Appellate District, in the matter of *People v. Urziceanu*
14 (2005) 132 Cal.App.4th 747, the Compassionate Use Act
15 contemplates the formation and operation of medical marijuana
16 cooperatives that would receive reimbursement for marijuana and
17 the services provided in conjunction with the provision of that
18 medical marijuana; and

19 WHEREAS, The United States Supreme Court refused to review
20 the California Court of Appeals decision in *City of Garden Grove*
21 *v. Superior Court of Orange County* (2008) 157 Cal.App.4th 355,
22 that required local law enforcement to uphold state law regardless
23 of federal law; and

24 WHEREAS, The California Supreme Court refused to review
25 the California Court of Appeals decision in *County of San Diego*
26 *v. San Diego NORML* 2007 165 Cal.App.4th 798, that required
27 local governments in California to implement state law regardless
28 of federal law; and

29 WHEREAS, The California Attorney General joined the voters,
30 lawmakers, and courts in promoting full implementation of state
31 law by publishing guidelines for medical cannabis in August 2008,
32 which instructed law enforcement, qualified patients, primary
33 caregivers, and collectives and cooperatives as to their rights and
34 responsibilities under the law; and

35 WHEREAS, The United States Drug Enforcement
36 Administration (DEA) has conducted raids and shut down dozens
37 of medical marijuana dispensaries and collectives in California
38 since 2005; and

39 WHEREAS, The DEA continually interferes with medical
40 marijuana patients and providers by raiding marijuana gardens and

1 patients’ associations and by intimidating property owners who
2 rent to lawful patients’ association with threats of prosecution and
3 asset forfeiture; and

4 WHEREAS, The United States Attorney’s Office continues to
5 prosecute medical marijuana defendants in federal court, where
6 they are denied the benefit of an affirmative defense and not
7 allowed to tell the jury about California’s medical marijuana laws;
8 and

9 WHEREAS, The federal government continues to classify all
10 forms of cannabis as Schedule I drugs under the federal Controlled
11 Substances Act and therefore does not recognize medical
12 marijuana; and

13 WHEREAS, The Office of National Drug Control Policy and
14 the United States Department of Health and Human Services
15 continue to deny the scientific evidence showing the medical
16 benefits of marijuana, despite the affirmative findings and policy
17 recommendations favoring medical marijuana research and
18 therapeutic use in the 1999 Institute of Medicine Report on medical
19 marijuana; and

20 WHEREAS, Historic practice and scientific research have
21 demonstrated medical marijuana alone or in combination with
22 other drugs is an effective treatment for many medical conditions,
23 including, but not limited to, nausea reduction for patients with
24 cancer and acquired immune deficiency syndrome (AIDS);
25 increasing the appetite of patients with nausea or other conditions
26 causing dangerous weight loss; reducing intraocular pressure in
27 patients with glaucoma; and controlling muscle spasms, seizures,
28 and chronic muscular pain; and

29 WHEREAS, A bipartisan group of 16 members of Congress
30 sent a letter to United States Attorney General Eric Holder in
31 February 2009 asking him to reverse the previous Administration’s
32 decision to deny a permit to cultivate medical marijuana for
33 research by University of Massachusetts researcher Lyle Craker,
34 despite the fact that DEA Administrative Law Judge Mary Ellen
35 Bittner ruled Craker’s petition was “in the public interest” and
36 called on the agency to license him; and

37 WHEREAS, In response to DEA raids at patients’ associations
38 in California in January of 2009, White House Spokesman Nick
39 Shapiro reiterated President Obama’s campaign position that using
40 federal resources to circumvent state law is wasteful; and

1 WHEREAS, United States Attorney General Eric Holder said
2 on March 18, 2009, that ending raids on medical marijuana
3 facilities is the “new American policy;” now, therefore, be it

4 *Resolved by the Senate and the Assembly of the State of*
5 *California, jointly,* That the Legislature respectfully memorializes
6 the President of the United States and the Congress to move quickly
7 to end federal raids, intimidation, and interference with state
8 medical marijuana law; and be it further

9 *Resolved,* That the Legislature respectfully memorializes the
10 President of the United States and the Congress take any necessary
11 measures to permit an affirmative defense to medical marijuana
12 charges in federal court and establish federal legal protection for
13 individuals authorized by state and local law to use or provide
14 marijuana for therapeutic use; and be it further

15 *Resolved,* That the Legislature respectfully memorializes the
16 President of the United States and the Congress to adopt policies
17 and laws to encourage advanced clinical research trials into the
18 therapeutic use of marijuana, which meet accepted scientific
19 standards; and be it further

20 *Resolved,* That the Legislature respectfully memorializes the
21 President of the United States and the Congress to create a
22 comprehensive federal medical marijuana policy that ensures safe
23 and legal access to any patient that would benefit from it; and be
24 it further

25 *Resolved,* That the Secretary of the Senate transmit copies of
26 this resolution to the President and Vice President of the United
27 States, to the Speaker of the House of Representatives, and to each
28 Senator and Representative from California in the Congress of the
29 United States.