

Introduced by Senator Migden

January 10, 2008

Senate Joint Resolution No. 20—Relative to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

SJR 20, as introduced, Migden. 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 as recommended by a physician; and
5 WHEREAS, The California State Legislature subsequently
6 established the Medical Marijuana Program to further the
7 provisions of Proposition 215 by facilitating the registration of
8 qualified patients and their caregivers through a statewide
9 identification system whereby a patient with an identification card
10 and the patient's designated primary caregiver are exempt from
11 arrest for possession, transportation, delivery, or cultivation of
12 marijuana for medical use; and
13 WHEREAS, In enacting the Medical Marijuana Program, the
14 California State Legislature expressly stated its intent to enhance
15 the access of patients and caregivers to medical marijuana through
16 collective, cooperative cultivation projects, and to address
17 additional issues that were not included in the Compassionate Use

1 Act and that are needed to be addressed to promote the fair and
2 orderly implementation of that act; and

3 WHEREAS, Local governments throughout California have
4 worked with dispensaries to ensure that medical marijuana may
5 be provided to seriously and terminally ill patients in a
6 nondisruptive manner; and

7 WHEREAS, Eleven other states—Alaska, Colorado, Hawaii,
8 Maine, Montana, Nevada, New Mexico, Oregon, Rhode Island,
9 Vermont, and Washington—have enacted laws, similar to
10 California’s Compassionate Use Act, that effectively remove
11 state-level criminal penalties for growing or possessing medical
12 marijuana; and

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

20 WHEREAS, The State of California has recognized medical
21 marijuana dispensaries and collectives as retailers that are required
22 to collect, report, and remit tax on the sales of medical marijuana
23 and the revenues derived from those sales to the State Board of
24 Equalization and the Franchise Tax Board; and

25 WHEREAS, The Drug Enforcement Agency of the United States
26 Department of Justice has conducted raids and shut down dozens
27 of medical marijuana dispensaries and collectives in California
28 since 2005, with 28 of these raids occurring since June 2007, in
29 11 different counties; and

30 WHEREAS, The medical marijuana dispensaries and collectives
31 in California shut down by the Drug Enforcement Agency had
32 been licensed by local governments and were reporting and paying
33 sales taxes to the State Board of Equalization and reporting and
34 paying income taxes to the Franchise Tax Board and the federal
35 Internal Revenue Service; and

36 WHEREAS, Seizures of the assets of these medical marijuana
37 dispensaries and collectives effectively have blocked payments of
38 taxes to the State of California; and

39 WHEREAS, The recent, escalated activities of the Drug
40 Enforcement Agency to shut down medical marijuana dispensaries

1 and collectives by targeting their landlords and seizing their
2 landlords' properties will have serious consequences, including,
3 but not limited to, thousands of California patients no longer being
4 able to access medical marijuana, as recommended by their
5 physicians, because these businesses will be forced to close or
6 move underground; the state and municipalities losing millions of
7 dollars in tax revenue; and thousands of individuals employed in
8 medical marijuana dispensaries or collectives losing well-paying
9 jobs with benefits; and

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

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

23 WHEREAS, In the matter of *Gonzales v. Raich* (2005) 545 U.S.
24 1, the United States Supreme Court upheld the authority of the
25 Drug Enforcement Agency to conduct these raids, but left state
26 medical marijuana laws intact; now, therefore, be it

27 *Resolved by the Senate and the Assembly of the State of*
28 *California, jointly*, That the Legislature respectfully memorializes
29 the President of the United States and the Congress to enact
30 legislation to require the Drug Enforcement Agency and all other
31 federal agencies and departments to respect the compassionate use
32 laws of states, including returning any assets seized from medical
33 marijuana dispensaries and collectives to the states in which they
34 are located; and be it further

35 *Resolved*, That the Legislature respectfully memorializes all
36 federal law enforcement agencies to enforce federal drug laws
37 relating to medical marijuana dispensaries and collectives in a
38 manner consistent with the laws of the State of California and its
39 municipalities within the confines of the provisions of the

1 Compassionate Use Act and the Medical Marijuana Program; and
2 be it further

3 *Resolved*, That the Secretary of the Senate transmit copies of
4 this resolution to the President and Vice President of the United
5 States, to the Speaker of the House of Representatives, and to each
6 Senator and Representative from California in the Congress of the
7 United States.

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