

111TH CONGRESS  
1ST SESSION

# H. R. 3939

To amend title 18, United States Code, to provide an affirmative defense for the medical use of marijuana in accordance with the laws of the various States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 27, 2009

Mr. FARR (for himself, Mr. PAUL, Mr. COHEN, Mr. ROHRABACHER, Mr. FRANK of Massachusetts, Mr. HINCHEY, Mr. KUCINICH, Mr. WAXMAN, Mr. MICHAUD, Ms. BALDWIN, Mr. BERMAN, Mrs. CAPPs, Mr. GRIJALVA, Mr. POLIS of Colorado, Mr. STARK, Ms. WOOLSEY, Mr. SHERMAN, Mr. HONDA, Mr. MCGOVERN, Ms. SCHAKOWSKY, Ms. ESHOO, Ms. BERKLEY, Mr. MORAN of Virginia, and Mr. GEORGE MILLER of California) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to provide an affirmative defense for the medical use of marijuana in accordance with the laws of the various States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Truth in Trials Act”.

1 **SEC. 2. PROVIDING AN AFFIRMATIVE DEFENSE FOR THE**  
2 **MEDICAL USE OF MARIJUANA; SEIZURE OF**  
3 **PROPERTY.**

4 (a) IN GENERAL.—Chapter 221 of title 18, United  
5 States Code, is amended by striking section 3436 and all  
6 that follows through the end of the chapter and inserting  
7 the following:

8 **“§ 3436. Affirmative defense for conduct regarding**  
9 **the medical use of marijuana; seizure of**  
10 **property.**

11 “(a) Any person facing prosecution or a proceeding  
12 for any marijuana-related offense under any Federal law  
13 shall have the right to introduce evidence demonstrating  
14 that the marijuana-related activities for which the person  
15 stands accused were performed in compliance with State  
16 law regarding the medical use of marijuana, or that the  
17 property which is subject to a proceeding was possessed  
18 in compliance with State law regarding the medical use  
19 of marijuana.

20 “(b)(1) It is an affirmative defense to a prosecution  
21 or proceeding under any Federal law for marijuana-related  
22 activities, which the proponent must establish by a prepon-  
23 derance of the evidence, that those activities comply with  
24 State law regarding the medical use of marijuana.

25 “(2) In a prosecution or a proceeding for a mari-  
26 juana-related offense under any Federal criminal law,

1 should a finder of fact determine, based on State law re-  
2 garding the medical use of marijuana, that a defendant's  
3 marijuana-related activity was performed primarily, but  
4 not exclusively, for medical purposes, the defendant may  
5 be found guilty of an offense only corresponding to the  
6 amount of marijuana determined to be for nonmedical  
7 purposes.

8       “(c) Any property seized in connection with a pros-  
9 ecution or proceeding to which this section applies, with  
10 respect to which a person successfully makes a defense  
11 under this section, shall be returned to the owner not later  
12 than 10 days after the court finds the defense is valid,  
13 minus such material necessarily destroyed for testing pur-  
14 poses.

15       “(d) Any marijuana seized under any Federal law  
16 shall be retained and not destroyed pending resolution of  
17 any forfeiture claim, if not later than 30 days after seizure  
18 the owner of the property notifies the Attorney General,  
19 or a duly authorized agent of the Attorney General, that  
20 a person with an ownership interest in the property is as-  
21 serting an affirmative defense for the medical use of mari-  
22 juana.

23       “(e) No plant may be seized under any Federal law  
24 otherwise permitting such seizure if the plant is being  
25 grown or stored pursuant to a recommendation by a physi-

1 cian or an order of a State or municipal agency in accord-  
2 ance with State law regarding the medical use of mari-  
3 juana.

4 “(f) In this section, the term State includes the Dis-  
5 trict of Columbia, Puerto Rico, and any other territory  
6 or possession of the United States.”.

7 (b) CLERICAL AMENDMENT.—The table of sections  
8 at the beginning of chapter 221 of title 18, United States  
9 Code, is amended by striking the item relating to section  
10 3436 and all that follows through the end of the table and  
11 inserting the following new item:

“3436. Affirmative defense for conduct regarding the medical use of marijuana;  
seizure of property.”.

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