

SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 21

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES GUTTENBERG, Drummond, Tarr, Kawasaki, Kito, Gara, Parish, Lincoln, LeDoux

SENATORS Begich, Wielechowski, Egan, Gardner

Introduced: 2/5/18

Referred: State Affairs

A RESOLUTION

1 **Urging the federal government to respect the authority of the state to regulate**
2 **marijuana use, production, and distribution and to honor previous federal guidance on**
3 **marijuana policy; and urging the federal government to reconsider its listing of**
4 **marijuana as a schedule I controlled substance.**

5 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 **WHEREAS** art. I, sec. 22, Constitution of the State of Alaska, establishes a right to
7 privacy, stating "The right of the people to privacy is recognized and shall not be infringed";
8 and

9 **WHEREAS** the Alaska Supreme Court held in *Ravin v. State*, 537 P.2d 494, 511
10 (Alaska 1975), that there is "no adequate justification for the state's intrusion into the citizen's
11 right to privacy by its prohibition of possession of marijuana by an adult for personal
12 consumption in the home"; and

13 **WHEREAS** the citizens of the state voted to legalize marijuana by way of Ballot
14 Measure No. 2, an "Act to tax and regulate the production, sale, and use of marijuana," on
15 November 4, 2014; and

1 **WHEREAS** the state has prioritized the federal marijuana enforcement objectives
2 stated in the August 29, 2013, memorandum from the United States Department of Justice to
3 all United States Attorneys, including preventing the distribution of marijuana to minors,
4 preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and
5 cartels, preventing the diversion of marijuana from states where it is legal under state law in
6 some form to other states, preventing state-authorized marijuana activity from being used as a
7 cover or a pretext for the trafficking of other illegal drugs or other illegal activity, preventing
8 violence and the use of firearms in the cultivation and distribution of marijuana, preventing
9 drugged driving and the exacerbation of other adverse public health consequences associated
10 with marijuana use, preventing the growing of marijuana on public land and the attendant
11 public safety and environmental dangers posed by marijuana production on public land, and
12 preventing marijuana possession or use on federal property; and

13 **WHEREAS** the state has implemented regulations under 3 AAC 306 that respect and
14 support the federal priorities listed in the Department of Justice's August 29, 2013,
15 memorandum; and

16 **WHEREAS** the American Medical Association supports public health-based
17 strategies, rather than incarceration, for individuals possessing cannabis for personal use and
18 urges the federal government to review its listing of marijuana as a schedule 1 controlled
19 substance with the goal of facilitating clinical research and development of cannabinoid-based
20 medicines and alternative delivery methods; and

21 **WHEREAS**, on August 1, 2017, Alaska Attorney General Jahna Lindemuth sent a
22 letter to United States Attorney General Jeff Sessions stating that former federal policy, as
23 articulated in the Department of Justice's August 29, 2013, memorandum, represented "a
24 pragmatic approach that effectively created space for states to be responsive to their residents
25 while also protecting federal priorities" and requesting the federal government to engage
26 directly with states to discuss potential approaches before reaching any final decisions on
27 changes to the Department of Justice's marijuana enforcement policies; and

28 **WHEREAS**, on January 16, 2018, Attorney General Lindemuth and the attorneys
29 general of 18 other states, districts, and territories sent a letter urging the United States
30 Congress to advance legislation to allow states that have legalized medical or recreational use
31 of marijuana to bring legal marijuana-related commerce into the banking system; and

1 **WHEREAS** Alaska Governor Bill Walker and the governors of Colorado,
2 Washington, and Oregon sent a letter, dated April 3, 2017, urging United States Attorney
3 General Jeff Sessions and United States Secretary of the Treasury Steve Mnuchin to engage
4 with states where marijuana has been legalized before embarking on any changes to federal
5 regulatory and enforcement systems; and

6 **WHEREAS** Alaska Governor Bill Walker sent letters to United States Attorney
7 General Jeff Sessions, dated August 1, 2017, and August 14, 2017, stating the manner in
8 which Alaska's regulatory framework governing state-licensed marijuana businesses
9 addresses federal interests and urging the federal government to maintain policies that respect
10 the state's authority; and

11 **WHEREAS**, on January 18, 2018, United States Senators Lisa Murkowski and Dan
12 Sullivan joined with 14 other Senators from around the country in a letter to the Director of
13 the United States Department of the Treasury's Financial Crimes Enforcement Network
14 expressing continuing support for a 2014 Financial Crimes Enforcement Network guidance on
15 Bank Secrecy Act expectations regarding marijuana-related businesses; and

16 **WHEREAS** United States Representative Don Young is cosponsoring H.R. 4779
17 (REFER Act of 2018), which would prohibit the United States Department of Justice from
18 using federal funds to "detain, prosecute, sentence, or initiate civil proceedings against an
19 individual, business or property, that is involved in the cultivation, distribution, possession,
20 dispensation, or use of cannabis," when those activities are conducted in compliance with
21 state law and local regulations; and

22 **WHEREAS** United States Attorney General Jeff Sessions' rescission of the
23 Department of Justice's August 29, 2013, memorandum and other federal guidance on state
24 marijuana policy undermines federal priorities;

25 **BE IT RESOLVED** that the Alaska State Legislature urges the federal government to
26 respect the authority of the State of Alaska to regulate marijuana use, production, and
27 distribution and forbear any federal interference in marijuana policy of states where marijuana
28 has been legalized, in keeping with the federal enforcement priorities enumerated in the
29 United States Department of Justice's August 29, 2013, memorandum; and be it

30 **FURTHER RESOLVED** that the Alaska State Legislature urges the federal
31 government to reconsider its listing of marijuana as a federal schedule I controlled substance.

1 **COPIES** of this resolution shall be sent to the Honorable Donald J. Trump, President
2 of the United States; the Honorable Jeff Sessions, Attorney General of the United States; and
3 the Honorable Lisa Murkowski and the Honorable Dan Sullivan, U.S. Senators, and the
4 Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.