113TH CONGRESS
1ST SESSION

H. R. 1523

To amend the Controlled Substances Act to provide for a new rule regarding the application of the Act to marihuana, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2013

Mr. ROHRABACHER (for himself, Mr. COHEN, Mr. YOUNG of Alaska, Mr. POLIS, Mr. AMASH, and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Controlled Substances Act to provide for a new rule regarding the application of the Act to marihuana, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Respect State Marijuana Laws Act of 2013".

SEC. 2. RULE REGARDING APPLICATION TO MARIHUANA.

Part G of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end the following:

"SEC. 710. RULE REGARDING APPLICATION TO MARIHUANA.

"Notwithstanding any other provision of law, the provisions of this subchapter related to marihuana shall not apply to any person acting in compliance with State laws relating to the production, possession, distribution, dispensation, administration, or delivery of marihuana.".

An Open Letter

Honorable Members of the Alaska State Legislature and Attorney General

The above proposed "*House Resolution 1523*" of the "*U.S. Congress*" to which our U.S. Representative, Don Young signed onto went through several "*Committees*" with no action taken on the "*Resolution*" which is a statement that the "*U.S. Congress*" has sustained its view that the provisions of the "*Federal Controlled Substance Law*" (*84 Stat. 1242, 21 U.S.C. §801 et seq.,*) does not recognize any "*Law*" of any "*State*" legalizing "*Marijuana*" and that the "*Federal Controlled Substance Law*" shall apply to all "*Citizens*" of those "*States*."

There are provisions within the "*Federal Controlled Substance Law*" that declares that it shall be a criminal act for any individual to have within his/her possession any amount of "*Marijuana*" and such amounts may result in fines up to $250,000.00 and incarceration time of up to five (5) years. The "*Memos*" of "*Deputy Attorney Generals*" of the "*U.S. Justice Department*" (*which are on file within the record of both the "House" and "Senate Judiciary Committees"*) has informed the "*U.S. Attorneys*" of our "*Nation*" that all "*Sections*" of the "*Federal Control Substance Law*" are in effect and the "*Laws*" of the "*States*" do not affect the provisions of the "*Federal Control Substance Law*" and no "*Law*" of any "*State*" may be used as a "*Defense*" in any "*Federal Court*":

> As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

For the below "*Section A.S. 11.71.092*" to be inserted into the "*Laws*" of the "*State of Alaska*" is a very cruel action of the part of the "*Members*" of the "*Alaska Legislative House and Senate Judiciary Committees*" for this is a deliberate act of "*Deception*" that will lead many "*Citizens*" of our "*State of Alaska*" into "*Federal Courts*" with them having the false impression that the "*Defenses*" of "*A.S. 11.71.092*" will be binding upon the "*Judges*" of those "*Courts*." The accused "*Defendant*" will be facing substantial "*Fines*" and may be incarcerated in a "*Federal Prison*" while all the time believing that he/she will be "*discharged*" of all allegations of "*Criminal Acts*" against the "*Control Substance Law*" of "*The United States of America*." What member of the "*Alaska BAR Association*" will be the first to be laughed out of the "*Federal Court*" with the "*Judge*" levying "*Sanctions*" upon that "*Attorney*" and his/her "*Client Defendant*"?

The minimum the "*Members*" of the "*Alaska State Legislative Judicial Committees*" may do is insert a "***Disclaimer***" within the "*Alaska State Control Substance Laws*" informing the "*Citizens*" of the "*State of Alaska*" that the "*Alaska Statutes*" addressing the use of "*Marijuana*" does not apply to the "*Federal Control Substance Law*" and no defense for any "*Offence*" of the "*Federal Control Substance Law*" may be had from any "*Section*" of the "*Alaska State Control Substance Laws*" in any "*Federal Court*" of "*The United States of America*." At the present time, the "*Members*" of the "*Alaska State House and Senate Judiciary Committees*" are not very nice "*People*."

Gordon Warren Epperly

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[Alaska] HOUSE BILL NO. 79

*** Sec. 5.** AS 11.71 is amended by adding a new section to article 1 to read:
Sec. 11.71.092. Defense to a prosecution under AS 11.71.040 - 11.71.060.

(a) In a prosecution under AS 11.71.040 - 11.71.060 charging the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, or display of a schedule VIA controlled substance, it is a defense that the defendant was 21 years of age or older at the time of the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, or display, and

(1) if the charge is for delivery, the defendant delivered one ounce or less of a schedule VIA controlled substance and not more than six immature marijuana plants to a person 21 years of age or older at the time of the delivery and the delivery was without benefit to the defendant;

(2) if the charge is for possession, manufacture, or possession with the intent to manufacture, the possession or manufacture

(A) was of one ounce or less of marijuana, or six marijuana plants or less, with not more than three mature, flowering plants;

(B) occurred on property lawfully in the possession of the defendant or with the consent of the person in lawful possession of the property; and

(C) occurred on property that was reasonably secured from unauthorized access;

(3) if the charge is for use or display, the use or display

(A) took place in a location not subject to public view without the use of binoculars, aircraft, or other optical aids; and

(B) occurred on property lawfully in the possession of the defendant or with the consent of the person in lawful possession of the property.

(b) In a prosecution under AS 11.71.050 - 11.71.060 charging the possession, use, or display of a schedule VIA controlled substance, it is a defense that the defendant was under 21 years of age but at least 18 years of age at the time of the possession, use, or display and

(1) if the charge is for possession, the possession

(A) was one ounce or less of a schedule VIA controlled substance;

(B) occurred on property lawfully in the possession of the defendant or with the consent of the person in lawful possession of the property; and

(C) occurred on property that was reasonably secured from unauthorized access;

(2) if the charge is for use or display, the use or display

(A) was one ounce or less of a schedule VIA controlled substance;

(B) took place in a location not subject to public view without the use of binoculars, aircraft, or other optical aids; and

(C) occurred on property lawfully in the possession of the defendant or with the consent of the person in lawful possession of the property.

(c) In a prosecution under AS 11.71.040 - 11.71.060 charging the manufacture, delivery, possession, possession with intent to manufacture or deliver, or display of a schedule VIA controlled substance, it is a defense that the defendant is a marijuana establishment licensed under AS 17.38 or an officer, agent, or employee of the marijuana establishment, and

(1) at the time of the manufacture, delivery, possession, possession with intent to manufacture or deliver, or display, the marijuana establishment was licensed under AS 17.38 or the officer, agent, or employee of the marijuana establishment was in compliance with AS 17.38; and

(2) the manufacture, delivery, possession, possession with intent to manufacture of deliver, or display complied with the requirements of AS 17.38; and

(3) if the charge is for delivery of a schedule VIA controlled substance, the delivery was to a person who was 21 years of age or older at the time of the delivery.

[Alaska] SENATE BILL NO. 30

*** Sec. 5.** AS 11.71 is amended by adding a new section to article 1 to read:
Sec. 11.71.092. Defense to a prosecution under AS 11.71.040 - 11.71.060.

[Text same as House Bill No. 79]