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Jack Whitver
4019 NE Bellagio Cir
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Re: Marijuana's classification in federal schedule 1

Dear Senator Whitver:

Thank you for discussing SSB 1243 (medical marijuana program) with me yesterday. You asked me to provide an explanation for an amendment I would like you to file. Since I know you are an attorney, I'd like to give a brief legal background before I explain my amendment.

As you probably know, both Iowa and federal law have marijuana listed in schedule 1. The condition for schedule 1 is that those substances must not have any accepted medical use in treatment in the United States. If a state accepts something in schedule 1 for medical use (defines it as medicine in a state statute), then that state has an obligation to remove it from its own state schedule 1 and notify the federal government (the U.S. Drug Enforcement Administration is a branch of the U.S. Department of Justice, so I'd send it to the U.S. Attorney General) that the substance no longer meets the condition for federal schedule 1. Cannabidiol, being a component of marijuana, is in both Iowa and federal schedule 1. Iowa enacted a law last year defining cannabidiol as medicine. The U.S. Department of Health and Human Services patented a process for extracting cannabidiol from marijuana in 2003 because of its neuroprotective qualities. http://files.iowamedicalmarijuana.org/imm/06630507_1.pdf

There is no doubt that federal scheduling interferes with the implementation of our new law. Iowa, for example, does not authorize the production or distribution of cannabidiol. Governor Branstad just recently suggested that Iowans authorized to

use the marijuana extract go to Illinois to get it, which violates both Illinois law and federal law.

So, the question you should have as an attorney is how a state law can affect a change in federal scheduling. Here's the answer. Grinspoon v. DEA, 828 F.2d 881, 887 (1st Cir. 1987):

> Unlike the CSA scheduling restrictions, the FDCA interstate marketing provisions do not apply to drugs manufactured and marketed wholly intrastate. Compare 21 U.S.C. § 801(5) with 21 U.S.C. § 321 (b), 331, 355(a). Thus, it is possible that a substance may have both an accepted medical use and safety for use under medical supervision, even though no one has deemed it necessary to seek approval for interstate marketing.

I'm attaching the explanation you asked me to prepare for the Legislative Services Agency.

Thank you!

Sincerely,

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Amend SSB 1243, as follows:

Accepted medical use of a controlled substance (cannabidiol, see 2014 Iowa Act, Chapter 1125, SF 2360) requires removal of the substance from schedule 1 of the controlled substances acts, both state and federal.

My first proposed amendment is to move marijuana and all of its components out of state schedule 1, temporarily place them in schedule 2, and have the pharmacy board recommend a different schedule, if any. Several bills were filed this year that would have moved marijuana and all of its components to schedule 2. SSB 1005, SSB 1205, and SF 282.

My second proposed amendment would be to notify the attorney general of the United States that marijuana has accepted medical use in treatment in the United States and no longer meets the definition of a federal schedule 1 controlled substance.

The reason I am including the whole marijuana plant, and not just cannabidiol, is because you cannot make cannabidiol without a marijuana plant. This would be like morphine being extracted from an opium plant. Morphine is in schedule 2 at both the state and federal level, and opium plants are in schedule 2 at both the state and federal level. The same is true of cocaine which is extracted from coca plants, both of which are in state and federal schedule 2. The plants that drugs are made from are not placed in a more restrictive category than the drugs themselves.