

December 18, 2017
130 E Aurora Ave
Des Moines, Iowa 50313-3654

Charles Grassley
135 Hart Senate Office Building
Washington, D.C. 20510-1501

Re: Request for federal legislation clarifying existing federal law

Dear Senator Grassley,

The State of Iowa has enacted a law, 2017 Acts Chapter 162, H.F. 524, Iowa Code § 124E (2017), that authorizes the cultivation of marijuana in Iowa.

<https://www.legis.iowa.gov/docs/publications/iactc/87.1/CH0162.pdf>

Current federal penalties for cultivation of marijuana include up to life in federal prison and fines of up to \$50 million, 21 U.S.C. § 841(b)(1)(A)(vii) (2017).

<https://www.gpo.gov/fdsys/pkg/USCODE-2011-title21/pdf/USCODE-2011-title21-chap13-subchapI-partD-sec841.pdf>

Clearly, it would be totally absurd to suggest that Iowa is authorizing a violation of federal law. And, yet, we hear a lot of confusing statements.

Iowa House Speaker Linda Upmeyer has repeatedly suggested that Iowa is authorizing violations of federal law.

On March 27, Speaker Upmeyer was quoted by KGLO News in Mason City saying, “they are already anticipating doing this bill with the possibility of breaking two federal laws.”

<http://kglonews.com/upmeyer-says-legislators-working-on-medical-marijuana-issue/>

On September 11, Speaker Upmeyer was quoted by the Des Moines Register, “House Speaker Linda Upmeyer, R-Clear Lake, noted in a statement that no matter what the Legislature had decided, the state still would have been in violation of federal law.”

This problem is not confined to one Iowa legislator. State regulatory agencies have struggled with this issue.

For example, state regulators in Maine wrote, “Page 1-1, Purpose: The activities described in these rules are considered a violation of federal law.”

<http://www.maine.gov/dhhs/mecdc/public-health-systems/mmm/documents/MMMP-Rules-144c122.pdf>

State regulators in New Jersey wrote, “Page 40: The new rules conflict with Federal law.”

http://www.state.nj.us/health/medicalmarijuana/documents/final_rules.pdf

The Federal Aviation Administration regulation, 14 C.F.R. § 91.19 (2017), clearly shows that state authorized use of controlled substances is not illegal activity under federal law and has never been understood to be illegal activity.

Title 14: Aeronautics and Space

PART 91—GENERAL OPERATING AND FLIGHT RULES

Subpart A—General

§91.19 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

(a) Except as provided in paragraph (b) of this section, no person may operate a civil aircraft within the United States with knowledge that narcotic drugs, marihuana, and depressant or stimulant drugs or substances as defined in Federal or State statutes are carried in the aircraft.

(b) Paragraph (a) of this section does not apply to any carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or

substances authorized by or under any Federal or State statute or by any Federal or State agency.

<https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=03efb7c1b34301bf39ff6d98084cdd45&rgn=div8&view=text&node=14:2.0.1.3.10.1.4.10&idno=14>

Because this is a matter of confusion affecting the health, welfare, and safety of Iowans, Congress needs to act. Please introduce the attached legislation at your earliest convenience.

If you have any questions, feel free to contact me.

Thank you!

Sincerely,

Carl Olsen
130 E Aurora Ave
Des Moines, Iowa 50313-3654
515-343-9933
carl-olsen@mchsi.com

S. _____

To acknowledge the principle of federalism as it applies to State drug policy.

IN THE SENATE OF THE UNITED STATES

A BILL

To acknowledge the principle of federalism as it applies to State marihuana policy.

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 Marihuana Policy Act of 2018”.

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) FINDINGS. — The Congress finds that —

(1) the framers of the Constitution, recognizing state sovereignty, secured its protection in the Tenth Amendment to the Constitution;

(2) since 1996 a total of forty-six states have enacted laws defining marihuana or extracts of marihuana as medicine;

(3) in *Gonzales v. Raich*, 545 U.S. 1, 28 n.37 (2005) the Supreme Court expressed serious doubt for the accuracy of the findings that require marijuana to be listed in Schedule I, e.g., Institute of Medicine, *Marijuana and Medicine: Assessing the Science Base* 179 (J. Joy, S. Watson, & J. Benson eds. 1999) (recognizing that “[s]cientific data indicate the potential therapeutic value of cannabinoid drugs, primarily THC [Tetrahydrocannabinol] for pain relief, control of nausea and vomiting, and appetite stimulation”);

(4) the National Academies of Sciences, Engineering, and Medicine,

The health effects of cannabis and cannabinoids: The current state of evidence and recommendations for research S-16 (The National Academies Press 2017), found there are specific regulatory barriers, including the classification of cannabis as a Schedule I substance, that impede the advancement of cannabis and cannabinoid research (15-1);

(5) in *Gonzales v. Oregon*, 546 U.S. 243 (2006) the Supreme Court acknowledged the decision making authority to accept the medical use of controlled substances is reserved to the states;

(6) Congress did not define the term “currently accepted medical use” in the Controlled Substances Act, *Alliance for Cannabis Therapeutics v. Drug Enforcement Administration*, 930 F.2d 936, 939 (D.C. Cir. 1991); and

(7) Congress did not intend the term “accepted medical use in treatment in the United States” to require a finding of recognized medical use in every state, *Grinspoon v. Drug Enforcement Administration*, 828 F.3d 881, 886 (1st Cir. 1987).

(b) PURPOSES. — The purposes of this Act are —

(1) to acknowledge that the classification of marihuana as a substance without currently accepted medical use in treatment in the United States does not apply to currently accepted medical use of marijuana in treatment in the individual states; and

(2) to remove marihuana from the classification reserved exclusively for substance without currently accepted medical use in treatment in the United States.

SEC. 3. FEDERALISM IN MARIHUANA POLICY.

Section 708 of the Controlled Substances Act (21 U.S.C. 903) is amended—

(1) by striking “No provision” and inserting the following: “(a) In general.—Except as provided in subsection (b), no provision”; and

(2) by adding at the end the following: “(b) Compliance with State law.—Notwithstanding any other provision of law, the provisions of this title relating to marihuana shall not apply to any person acting in

compliance with State law, as determined by the State, relating to the production, possession, distribution, dispensation, administration, laboratory testing, recommending use, or delivery of medical marihuana.”.

SEC. 4. RESCHEDULING OF MARIHUANA.

(a) Removal from Schedule I.—Schedule I, as set forth in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)), is amended in subsection (c)—

(1) by striking paragraphs (10) and (17);

(2) by redesignating paragraphs (11) through (16) as paragraphs (10) through (15), respectively; and

(3) by redesignating paragraphs (18) through (28) as paragraphs (16) through (26), respectively.

(b) Listing in Schedule II.—Schedule II, as set forth in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)), is amended by adding at the end the following: “(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of marihuana, including its salts, isomers, and salts of isomers.”.

From: Senator Chuck Grassley
To: carl-olsen@mchsi.com
Subject: Responding to your message
Date: Thursday, December 21, 2017 9:49:22 AM



December 21, 2017

Dear Rev. Olsen:

Thank you for contacting me regarding your views on marijuana. As your Senator, it is important for me to hear from all Iowans on issues that are important to you.

Over the years, some people have expressed the view that marijuana should be legalized for recreational, medical, and agricultural purposes. However, I disagree with this view. Marijuana is illegal because it is dangerous. When you smoke marijuana, or use any other drug, it changes your brain. It changes the way you think, your ability to learn, and how well you can remember. Making marijuana a legal drug will not change any of this. The laws granting the federal government the authority over the movement and sale of these dangerous substances is well established and has been thoroughly reviewed by the courts.

Marijuana harms the brain's development. The National Institute on Drug Abuse warns that teen use of marijuana causes problems with memory and learning, perception, problem-solving, coordination, and heart rate. Because of all the problems it causes, marijuana can also affect school and athletic performance. Although these problems are not unique to adolescents' use of marijuana, adolescents are particularly susceptible.

Driving while under the influence of marijuana is also very dangerous because marijuana slows motor functions and impairs spatial perception. Drugged drivers cause serious accidents. A study conducted by the U.S. Census Bureau reported that an estimated 38,000 high school seniors in the U.S. crashed while driving under the influence of marijuana.

Further, long-term marijuana use leads to addiction in some people. Many people develop a tolerance for marijuana and need more and more of the drug to get high. It has been linked to later abuse of other drugs in long-term studies, according to the National Institute on Drug Abuse. Most people who use other drugs tried marijuana first.

Some Iowans have also compared the failure of alcohol prohibition to marijuana prohibition today. While it is true that alcohol prohibition failed, alcohol is still responsible for over 100,000 premature deaths per year. Alcohol causes problems when people drink too much, but one drink will not affect the typical adult. Alcohol is legal and easily accessible, and I would have to agree with the observation that these costs are higher than the present costs of marijuana use. But this is true because alcohol is legal, readily available and widely accepted-not because marijuana is less dangerous. I disagree with any assumption that legalizing marijuana will not increase its use and therefore not increase the associated costs, or that crime would be reduced if marijuana were legalized.

Some have expressed that we should regulate marijuana in similar vein as we do alcohol and tobacco. While it is true that tobacco, like alcohol, is legal, it is still responsible for even more premature deaths per year, staggering associated health care and other allied costs. Tobacco companies have agreed to pay millions, and possibly billions of dollars because they have lied to the

public about the harm their products cause. Yet the level of cancer causing carcinogens found in a cigarette is less than that found in a marijuana cigarette.

Others have argued that the legal system would be less burdened if marijuana was legalized. However, the idea that our prisons are filled with marijuana users is inaccurate. The overwhelming majority of federal and state inmates are in jail for repeat or violent crimes. Fewer than 2 percent of state inmates are in prison for first-time, non-violent drug offenses.

Over 90 percent of inmates are in jail for violent and repeat offenses. Of those in jail for drug offenses, the vast majority have been convicted for drug trafficking.

Thank you again for contacting me. I hope you found this information helpful. Please keep in touch.

Sincerely,

Chuck Grassley

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