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114TH CONGRESS
1ST SESSION

H. R. 3746

To make the Controlled Substances Act inapplicable with respect to marihuana in States that have legalized marijuana and have in effect a statewide regulatory regime to protect certain Federal interests, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 2015

Ms. DELBENE 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 make the Controlled Substances Act inapplicable with respect to marihuana in States that have legalized marijuana and have in effect a statewide regulatory regime to protect certain Federal interests, 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 "State Marihuana And Regulatory Tolerance Enforcement Act".

SEC. 2. INAPPLICABILITY OF CONTROLLED SUBSTANCES ACT TO MARIHUANA IN CERTAIN STATES.

(a) IN GENERAL.—Part E of the Controlled Substances Act (21 U.S.C. 871 et seq.) is amended by adding at the end the following:

"SEC. 521. INAPPLICABILITY TO MARIHUANA IN CERTAIN STATES.

"(a) IN GENERAL.—For the period described in subsection (c), this title shall not apply with respect to the production, manufacture, distribution, prescribing, dispensing, possession, and use of marihuana in a State if each of the following conditions is met:

"(1) The State submits a request to the Attorney General certifying that the State has legalized marihuana for recreational or medical use.

"(2) The request demonstrates, as determined by the Attorney General, that the State has, or will have, in effect a statewide regulatory regime for marihuana that is sufficient to protect Federal interests, including each of the following:

"(A) Preventing the distribution of marihuana to minors.

"(B) Preventing revenue from the sale of marihuana from going to criminal enterprises, gangs, and cartels.

"(C) Preventing the diversion of marihuana from States where the manufacture, distribution, dispensing, and possession of marihuana is legal to other States.

"(D) Preventing State-authorized marihuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity.

"(E) Preventing violence and the use of firearms in the cultivation and distribution of marihuana.

"(F) Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marihuana use.

"(G) Preventing the growing of marihuana on public lands and the attendant public safety and environmental dangers posed by marihuana production on public lands.

"(H) Preventing marihuana possession or use on Federal property.

"(I) Preventing distribution of tainted marihuana.

"(3) The State agrees to study and report annually to the Attorney General regarding outcomes

of legalizing marihuana in the State on the following:

"(A) Youth marihuana use.

"(B) Rates of driving while intoxicated.

"(C) Diversion to other States.

"(D) Prevalence of drug-related organized crime activity.

"(b) FINDING BY ATTORNEY GENERAL.—

"(1) IN GENERAL.—Not later than 90 days after receipt of a request under subsection (a), the Attorney General shall—

"(A) issue a finding on whether the conditions listed in subsection (a) are met; and

"(B) if the Attorney General finds that such conditions are not met, include an explanation of the reasons why such conditions are not met.

"(2) FAILURE TO ISSUE A FINDING.—If the Attorney General fails to issue such a finding by the deadline specified in paragraph (1), the Attorney General is deemed to have found that the conditions listed in subsection (a) for the State involved are met, subject to the Attorney General's authority to revoke such a finding under subsection (e).

"(c) DURATION OF PERIOD.—The period described in this subsection is, with respect to a State, the period of 3 years beginning on the effective date of the Attorney General's finding that the conditions listed in subsection (a) are met. A State may submit requests under subsection (a)(1) for subsequent, consecutive 3-year periods.

"(d) EFFECTIVE DATE.—The effective date of a finding under subsection (b)(1) that the conditions listed in subsection (a) are met with respect to a State shall be not sooner than the effective date of the State's regulatory regime required by subsection (a)(2).

"(e) LOSS OF WAIVER.—

"(1) IN GENERAL.—The Attorney General may—

"(A) continually review the production, manufacture, distribution, prescribing, dispensing, possession, and use of marihuana in a State with respect to which the Attorney General finds the conditions listed in subsection (a) are met; and

"(B) after providing notice and an opportunity to correct any failure to meet such conditions in accordance with paragraph (2), revoke such finding if the Attorney General finds that

the conditions listed in subsection (a) are no longer met.

"(2) NOTICE; OPPORTUNITY TO CORRECT.—If the Attorney General finds that the conditions listed in subsection (a) are no longer met, the Attorney General shall give the State involved—

"(A) notice of such finding; and

"(B) a period of not less than 180 days to correct any failure to meet the conditions listed in subsection (a).

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Federal Government from providing assistance to a State (under Federal law other than this title) in the implementation or enforcement of State law relating to the production, manufacture, distribution, prescribing, dispensing, possession, or use of marihuana.

"(g) DEFINITION.—In this section, the term 'tainted' means containing microbes, pesticides, or controlled substances other than marihuana.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513) is

1 amended by inserting at the end of the items relating to
2 part E of title II the following new item:

"Sec. 521. Inapplicability to marihuana in certain States.".

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