

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

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “State Marihuana And
5 Regulatory Tolerance Enforcement Act”.

1 **SEC. 2. INAPPLICABILITY OF CONTROLLED SUBSTANCES**

2 **ACT TO MARIHUANA IN CERTAIN STATES.**

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

6 **“SEC. 521. INAPPLICABILITY TO MARIHUANA IN CERTAIN**
7 **STATES.**

8 “(a) IN GENERAL.—For the period described in sub-
9 section (c), this title shall not apply with respect to the
10 production, manufacture, distribution, prescribing, dis-
11 pensing, possession, and use of marihuana in a State if
12 each of the following conditions is met:

13 “(1) The State submits a request to the Attor-
14 ney General certifying that the State has legalized
15 marihuana for recreational or medical use.

16 “(2) The request demonstrates, as determined
17 by the Attorney General, that the State has, or will
18 have, in effect a statewide regulatory regime for
19 marihuana that is sufficient to protect Federal inter-
20 ests, including each of the following:

21 “(A) Preventing the distribution of mari-
22 huana to minors.

23 “(B) Preventing revenue from the sale of
24 marihuana from going to criminal enterprises,
25 gangs, and cartels.

1 “(C) Preventing the diversion of mari-
2 huana from States where the manufacture, dis-
3 tribution, dispensing, and possession of mari-
4 huana is legal to other States.

5 “(D) Preventing State-authorized mari-
6 huana activity from being used as a cover or
7 pretext for the trafficking of other illegal drugs
8 or other illegal activity.

9 “(E) Preventing violence and the use of
10 firearms in the cultivation and distribution of
11 marihuana.

12 “(F) Preventing drugged driving and the
13 exacerbation of other adverse public health con-
14 sequences associated with marihuana use.

15 “(G) Preventing the growing of marihuana
16 on public lands and the attendant public safety
17 and environmental dangers posed by marihuana
18 production on public lands.

19 “(H) Preventing marihuana possession or
20 use on Federal property.

21 “(I) Preventing distribution of tainted
22 marihuana.

23 “(3) The State agrees to study and report an-
24 nually to the Attorney General regarding outcomes

1 of legalizing marihuana in the State on the fol-
2 lowing:

3 “(A) Youth marihuana use.

4 “(B) Rates of driving while intoxicated.

5 “(C) Diversion to other States.

6 “(D) Prevalence of drug-related organized
7 crime activity.

8 “(b) FINDING BY ATTORNEY GENERAL.—

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

12 “(A) issue a finding on whether the condi-
13 tions listed in subsection (a) are met; and

14 “(B) if the Attorney General finds that
15 such conditions are not met, include an expla-
16 nation of the reasons why such conditions are
17 not met.

18 “(2) FAILURE TO ISSUE A FINDING.—If the At-
19 torney General fails to issue such a finding by the
20 deadline specified in paragraph (1), the Attorney
21 General is deemed to have found that the conditions
22 listed in subsection (a) for the State involved are
23 met, subject to the Attorney General’s authority to
24 revoke such a finding under subsection (e).

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

7 “(d) EFFECTIVE DATE.—The effective date of a find-
8 ing under subsection (b)(1) that the conditions listed in
9 subsection (a) are met with respect to a State shall be
10 not sooner than the effective date of the State’s regulatory
11 regime required by subsection (a)(2).

12 “(e) LOSS OF WAIVER.—

13 “(1) IN GENERAL.—The Attorney General
14 may—

15 “(A) continually review the production,
16 manufacture, distribution, prescribing, dis-
17 pensing, possession, and use of marihuana in a
18 State with respect to which the Attorney Gen-
19 eral finds the conditions listed in subsection (a)
20 are met; and

21 “(B) after providing notice and an oppor-
22 tunity to correct any failure to meet such condi-
23 tions in accordance with paragraph (2), revoke
24 such finding if the Attorney General finds that

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

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

7 “(A) notice of such finding; and

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

11 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion shall be construed to prohibit the Federal Government
13 from providing assistance to a State (under Federal law
14 other than this title) in the implementation or enforcement
15 of State law relating to the production, manufacture, dis-
16 tribution, prescribing, dispensing, possession, or use of
17 marihuana.

18 “(g) DEFINITION.—In this section, the term ‘tainted’
19 means containing microbes, pesticides, or controlled sub-
20 stances other than marihuana.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 at the beginning of the Comprehensive Drug Abuse Pre-
23 vention 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.”.

