

**REPORT OF THE  
CHIEF LEGISLATIVE ANALYST**

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DATE: August 21, 2018

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tsou   
Chief Legislative Analyst

Council File No.: 18-0002-S109  
Assignment No.: 18-08-0789

SUBJECT: Resolution (Wesson – Koretz) in support of HR 6043 (Joyce) and S 3032 (Warren)

CLA RECOMMENDATION: Adopt Resolution (Wesson – Koretz) to include in the City’s 2017-2018 Federal Legislative Program support for HR 6043 (Joyce) and S 3032 (Warren), the Strengthening the Tenth Amendment Through Entrusting States Act, which would allow state governments to enforce their marijuana laws without undue federal intervention.

SUMMARY

HR 6043 (Joyce) and S 3032 (Warren), the Strengthening the Tenth Amendment Through Entrusting States (STATES) Act, would amend the federal Controlled Substance Act (CSA), which classifies cannabis as a Schedule I drug. The STATES Act would amend the CSA so that its provisions do not apply to persons complying with state and tribal laws related to cannabis. The bill would also clearly state that transactions involving cannabis that are compliant with state and tribal laws are not considered trafficking or unlawful transactions.

According to Resolution (Wesson – Koretz), introduced on August 14, 2018, the federal government continues to prosecute the possession and use of cannabis even in states where it has been legalized. The Resolution contends that the STATES Act will allow state governments to enforce their marijuana laws without undue federal intervention. The Resolution seeks an official position of the City to support HR 6043 and S 3032.

BACKGROUND

Under existing federal law, cannabis is classified as a Schedule I drug. Schedule I drugs are considered to have a high potential for abuse with no accepted medical use and thus may not be prescribed, dispensed, or administered. Under the CSA, trafficking cannabis is unlawful and any money used in exchange for a Schedule I drug is subject to forfeiture by the federal government. Federally insured financial institutions are prohibited from accepting the proceeds of unlawful transactions involving controlled substances.

In 2016, voters in a statewide ballot approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (AUMA), which authorized the state licensure of the commercial cannabis industry and legalized the recreational use of cannabis for adults aged 21 and older. On March 7, 2017, voters passed the citywide ballot item Proposition M giving the Council and Mayor oversight over the licensure and regulation of commercial cannabis in the City. On December 19,

2017, the Council adopted ordinances that legalized and established the regulatory scheme over the commercial cannabis industry in the City. Forty five other states as well as additional U.S. territories and tribal governments have laws permitting some form of recreational and/or medical cannabis putting state and tribal laws at odds with federal law.

In addition to amending the CSA so that its provisions do not apply to those complying with state and tribal laws relating to cannabis, the STATES Act would prohibit commercial cannabis firms from hiring employees under the age of 18 and would prohibit the sale of cannabis to persons under the age of 21. Further provisions of the act would remove industrial hemp from the definition of “marihuana,” prohibit the distribution of cannabis at transportation safety facilities, and state that transactions compliant with state and tribal laws are not unlawful and the proceeds not subject to federal forfeiture.

**BILL STATUS**

**HR 6043**

6/07/18	Introduced. Referred to the House 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.
7/30/18	Referred to the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations.

**S 3032**

06/07/18	Read twice and referred to the Committee on the Judiciary.
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Matthew Shade  
Analyst

Attachments: 1. Resolution (Wesson – Koretz)

RESOLUTION

RULES, ELECTIONS, INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the Constitution's Tenth Amendment reserves for states any power not explicitly delegated to the federal government; and

WHEREAS, through either legislative action or voter referendum, 46 states have laws permitting or decriminalizing marijuana or marijuana-based products; and

WHEREAS, California voters overwhelmingly approved the full legalization of recreational marijuana via Proposition 64 in 2016; and

WHEREAS, the federal government still considers marijuana an illegal substance under the Controlled Substances Act and continues to prosecute its possession and use even in states where it is legal, in violation of the Tenth Amendment; and

WHEREAS, HR. 6043 and S. 3032, also known as the Strengthening the Tenth Amendment Through Entrusting States (STATES) Act, is currently pending in the U.S. House and Senate and would amend the Controlled Substances Act to exempt states that have reformed their marijuana laws from federal intervention in such matters; and

WHEREAS, the STATES Act would also maintain federal provisions preventing interstate trafficking of marijuana into prohibition states from legal states and establishing minimum ages to buy marijuana or work in the industry; and

WHEREAS, the STATES Act would also exclude industrial hemp from the federal government's definition of "marihuana" and allow law-abiding marijuana businesses to access financial services from banks;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2017-2018 Federal Legislative Program support for HR. 6043 and S 3032, also known as the STATES Act, which would allow state governments to enforce its marijuana laws without undue federal intervention.

PRESENTED BY: Herb J. Wesson  
HERB J. WESSON, JR.  
Councilmember, 10<sup>th</sup> District

SECONDED BY: Paul Krutz

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