



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 4/9/2018

Agenda Placement: 5A

Napa County Legislative Subcommittee Board Agenda Letter

TO: Napa County Legislative Subcommittee
FROM: Helene Franchi for Minh Tran - County Executive Officer
County Executive Office
REPORT BY: Molly Rattigan, Deputy County Executive Officer - 253-4112
SUBJECT: HR 4779-REFER Act of 2018

RECOMMENDATION

County Executive Officer requests discussion and possible action on HR 4779 (Lee) known as the Restraining Excessive Federal Enforcement and Regulations of Cannabis (REFER) Act of 2018, a bill that would limit funds made available to any Department or Agency of the United States from being used to interfere with a State or unit of local government implementing or maintaining its State law or regulations that authorizes the use, distribution, possession or cultivation of cannabis.

EXECUTIVE SUMMARY

The Restraining Excessive Federal Enforcement and Regulations of Cannabis Act of 2018, also known as HR 4779 or the REFER Act of 2018 is an act that limits the use of funds made available by any Act of Congress to any Department or Agency in the United States to:

1. Prevent a State or unit of local government from implementing or maintaining its State law or regulation that authorized the use, distribution, possession, or cultivation of cannabis,
2. Detain, prosecute, sentence, or initiate civil proceedings against an individual, business or property involved in the cultivation or distribution of cannabis,
3. Penalize a financial institution or person solely because the institution or person provides financial services to an entity that manufactures, produces or handles cannabis or cannabis products.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

On January 11, 2018, Representative Lee introduced the Restraining Excessive Federal Enforcement and Regulations of Cannabis Act of 2018, also known as HR 4779 or the REFER Act of 2018. The act limits the use of funds made available by any Act of Congress to any Department or Agency in the United States to:

1. Prevent a State or unit of local government from implementing or maintaining its State law or regulation that authorized the use, distribution, possession, or cultivation of cannabis,
2. Detain, prosecute, sentence, or initiate civil proceedings against an individual, business or property involved in the cultivation or distribution of cannabis,
3. Penalize a financial institution or person solely because the institution or person provides financial services to an entity that manufactures, produces or handles cannabis or cannabis products.

HR 4779 has 10 co-sponsors (7 Democrats and 3 Republicans). Congressman Thompson is not a co-sponsor. However, after conversations between County staff and the Congressman's staff, the bill will be flagged for his review upon the conclusion of the congressional recess. The bill has been referred to the following House committees: Judiciary, Financial Services and Energy and Commerce. The County's recent trip to Washington, D.C. for the National Association of Counties (NACO) Legislative Conference and advice from the County's legislative advocates have both indicated that bills relating to recreational cannabis will not progress in a Republican controlled Congress.

On July 17, 2017, the Napa County Board of Supervisors voted to support HR 975-Respect State Marijuana Laws Act of 2017. This bill is similar to HR 4779 in that it amends the Controlled Substances Act related to cannabis and any person acting in compliance with State laws relating to the production, possession, distribution, dispensation, administration, or delivery of cannabis. HR 975 is sponsored by a Republican, Representative Dana Rohrabacher, from California and has 45 bi-partisan co-sponsors including Napa's representative, Congressman Mike Thompson. Congressman Thompson has also signed a joint letter supporting State's cannabis rights (attached).

On August 1, 2017, the Napa County Board of Supervisors voted to support HR 2215-Secure and Fair Enforcement Banking Act of 2017. This bill is also similar to HR 4779 in that it creates protections for financial institutions that provide financial services to cannabis-related businesses. This bill was introduced by Representative Ed. Perlmutter, a Democrat from Colorado and has 89 bi-partisan co-sponsors, including Congressman Mike Thompson.

HR 975 and HR 2215 face the same challenges as HR 4779 and are unlikely to move forward in a Republican controlled Congress. Like HR 4779, both bills have been referred to committees but not scheduled for hearing.

At the 2018 NACO Legislative Conference, the California State Association of Counties (CSAC) took a lead role in convening States with legal medicinal or adult use cannabis to discuss drafting a legislative platform position for State cannabis rights. Supervisor Ryan Gregory participated in this forum and CSAC will continue to work with NACO to develop a platform for both organizations and their member agencies.

Given that it is unlikely that HR 4779 will move forward in the coming months, staff recommends the Legislative Subcommittee add the bill to Watch list and monitor progress. Staff will also continue to monitor HR 975 and HR 2215 and facilitate participation in the discussion with Congressman Thompson, NACO and CSAC regarding State rights for those with legal cannabis.

SUPPORTING DOCUMENTS

- A . HR 4779-Text
- B . Cannabis Rights Letter
- C . HR 975 Text
- D . HR 2215 Text

Recommendation: Approve

Reviewed By: Molly Rattigan