

Federal exemption for Iowa's medical cannabis program ([Iowa Code Chapter 124E](#)) is on the [agenda](#) for a Senate Judiciary subcommittee meeting Monday afternoon, February 13, 2023, at 1:30 p.m. at the Iowa State Capitol.

[Senate File 69](#) creates a legal task force to conform Iowa's medical cannabis program with federal drug law. Subcommittee members are Sen. [Brad Zaun](#) (sponsor of the bill and Judiciary Committee chair), Sen. [Mike Bousset](#) (former legal counsel for Gov. Branstad), and Sen. [Nate Boulton](#) (attorney and ranking member of the Judiciary Committee).

[21 U.S.C. § 822\(d\)](#) allows the United States Department of Justice to waive registration requirements for “[manufacturers](#), [distributors](#), or [dispensers](#),” if the department finds it consistent with public health and safety.

[21 U.S.C. § 822\(c\)\(3\)](#) protects end users if such a waiver is granted.

An existing exemption, [created in 1966](#), [21 C.F.R. § 1307.31](#) waives the registration requirements for distributors of peyote being supplied to members of the Native American Church. Peyote, like cannabis, is a federal Schedule I controlled substance.

It goes without saying lawmakers thought it was in the best interest of public health and safety to enact a medical cannabis program, so it's impossible to avoid this federal mandate. It's the law!

The factors the department must consider are: (1) unauthorized use; and (2) adverse medical reactions. Iowa's medical cannabis program can easily pass both tests. There hasn't been any diversion or adverse medical reactions. Iowa's program is well controlled, as the title of the federal drug law, “The Controlled Substances Act”, implies.

There are adverse public safety factors, but they are all a consequence of federal drug law's civil enforcement. Failure by the department to grant a waiver promotes a significant risk to public safety.

Medical patients, the same people the law was enacted to protect, are discriminated against in housing, education, employment, healthcare, and insurance. Businesses providing medical cannabis cannot deduct normal business expenses from state or federal income tax and must operate in “cash only” to avoid federal money laundering statutes. And, these businesses can be sued by anyone under federal statutes against racketeering.

Justice Clarence Thomas described it as “traps for the unwary”. [Standing Akimbo v. United States](#), 594 US \_\_\_, 141 S Ct 2236, 210 L Ed 2d 974 (2021).

Beside the fact state lawmakers thought it was in the best interest of public health and safety to create Iowa's medical cannabis program, the department has issued guidance documents stating it has better things to do than focus on state medical cannabis programs. Department of Justice, [Guidance Regarding Marijuana Enforcement](#), August 29, 2013. The following year, Congress began blocking criminal enforcement for state medical cannabis programs:

Consolidated Appropriations Act, 2023 ([H.R. 2617](#)), Public Law 117-328, § 531 (December 29, 2022), [H.R. 2617](#), § 531; Consolidated Appropriations Act, 2022 ([H.R. 2471](#)), Public Law 117-103, § 531, [136 STAT. 49, 150](#) (March 15, 2022); Consolidated Appropriations Act, 2021 ([H.R. 133](#)), Public Law 116-260, § 531, [134 Stat. 1182, 1283](#) (Dec. 27, 2020); Consolidated Appropriations Act, 2020 ([H.R. 1158](#)), Public Law 116-93, § 531, [133 Stat. 2317, 2431](#) (Dec. 20, 2019); Consolidated Appropriations Act, 2019 ([H.J. Res. 31](#)), Public Law 116-6, § 537, [133 Stat. 13, 138](#) (Feb. 15, 2019); Consolidated Appropriations Act, 2018

([H.R. 1625](#)), Public Law 115-141, § 538, [132 Stat. 347, 444](#) (Mar. 23, 2018); Consolidated Appropriations Act, 2017 ([H.R. 244](#)), Public Law 115-31, § 537, [131 Stat. 135, 228](#) (May 5, 2017); Consolidated Appropriations Act, 2016 ([H.R. 2029](#)), Public Law 114-113, § 542, [129 Stat. 2241, 2332](#) (Dec. 18, 2015); Consolidated and Further Continuing Appropriations Act, 2015 ([H.R. 83](#)), Public Law 113-235, § 538, [128 Stat. 2129, 2217](#) (Dec. 16, 2014).

All of these factors tip the balance in favor of the state on whether to grant the waiver. The department cannot point to any factor that would tip the balance against granting the waiver. Congress has affirmed that it is in the best interest of public health and safety to waive criminal enforcement. It would be impossible for the department to find any evidence that supports continued federal civil enforcement. Problems associated with money laundering (banking), tax penalties, insurance, housing, employment, education, and healthcare, would all be resolved by granting the waiver.

Of course, it's only a matter of time before Congress eventually comes up with a permanent solution, but patients enrolled in these programs don't have time to wait. A federal waiver would bring immediate relief to patients who may not live long enough to see a permanent solution.