



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #SD-15-047

TITLE: Marijuana and Hemp Policy in Indian Country

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NCAI HEADQUARTERS

1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, Indian tribes are sovereign governments with the inherent right to set local laws addressing marijuana, including its medical and industrial uses, according to the public health and economic needs of their unique communities; and

WHEREAS, marijuana as defined by the Controlled Substances Act remains illegal under federal law, however in 2011 the Department of Justice released what has come to be known as the Cole Memorandum, recommending non-enforcement of the federal prohibition of marijuana-related activities in states that have legalized those activities so long as certain safeguards are in place; and

WHEREAS, in 2014, in response to a number of tribes inquiring how the Cole Memorandum would affect Indian country, the Department of Justice issued the Wilkinson Memorandum, a Policy Statement Regarding Marijuana Issues in Indian Country, recommending non-enforcement of the federal prohibition of marijuana-related activities to U.S. Attorneys serving tribes that have legalized those activities under tribal law so long as the same safeguards are in place; and

WHEREAS, even with the release of the Wilkinson Memorandum, application of the Department of Justice policy has been inconsistent in Indian Country, including confusion over federal public lands vs. federal Indian lands, and absent adequate government-to-government consultation, lacks clear guidance for Indian tribes and United States Attorneys seeking to carry out the policy; and

WHEREAS, it remains unclear how the Department of Justice policy operates on Indian Lands with complicated jurisdictional and legal constraints, including those lands within Public Law 280 states and Alaska; and

WHEREAS, legislation pending in Congress calls for state law preemption for marijuana-related activities in states that have legalized such activities, and includes United States territories, but fails to include Indian tribal governments and Indian country; and

WHEREAS, proposed legislation would allow persons and entities engaged in marijuana and hemp-related activities in states that have legalized those activities to access federal tax benefits, social services, and criminal expungement, but has failed to include Indian tribes and tribal members; and

WHEREAS, the Keeping out Illegal Drugs Act of 2015 singles out Indian tribal governments and prevents legalization within Indian country, including for medical or industrial uses, and would prohibit federal funding for any tribe permitting the cultivation, manufacture, or distribution of marijuana on Indian lands; and

WHEREAS, Indian tribes are each unique communities that varying and tribal significant problems with substance abuse as well over criminalization and incarceration of marijuana offenses, and as a result tribal governments have a great need to exercise local self-government as the United States undergoes a transformation in its laws regarding marijuana.

NOW THEREFORE BE IT RESOLVED, that the National Congress of American Indians (NCAI) calls on Congress and the Administration to enact policies, regulations, and legislation reflecting Indian tribes' inherent right as sovereign governments to set local laws addressing marijuana, including its medical and industrial uses, according to the public health and economic needs of their unique communities; and

BE IT FURTHER RESOLVED, that NCAI calls on Congress to include Indian tribes in current and future federal legislation addressing marijuana- and hemp-related activities in a manner that respects inherent tribal sovereign authority to regulate those activities; and

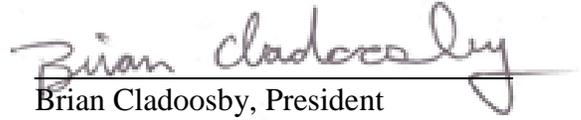
BE IT FURTHER RESOLVED, that NCAI calls on the Departments of Justice and Interior to engage in meaningful government-to-government consultation with Indian tribes regarding proper implementation of the Wilkinson Memorandum, which recommends non-enforcement of the federal prohibition of marijuana-related activities on tribal lands where those activities are legal under tribal law but fails to provide clear implementing directives, and to clarify application of the policy on tribal lands; and

BE IT FURTHER RESOLVED, that NCAI strongly opposes any Administrative or Congressional policy, regulation, or legislation that would limit the inherent sovereign authority of tribes to regulate marijuana and hemp according to the public health and economic needs of their unique communities; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2015 Annual Session of the National Congress of American Indians, held at the Town and Country Resort, San Diego, CA, October 18-23, 2015, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary