

HOUSE BILL No. 2354

By Committee on Judiciary

Requested by Representative Vaughn on behalf of Representative S. Ruiz

2-7

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to unlawful possession of controlled substances; providing an exception
3 for residents of Kansas who possess marijuana and are disabled
4 veterans with a valid medical marijuana card issued by any state;
5 amending K.S.A. 21-5706 and repealing the existing section.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 21-5706 is hereby amended to read as follows: 21-
9 5706. (a) It shall be unlawful for any person to possess any opiates, opium
10 or narcotic drugs, or any stimulant designated in K.S.A. 65-4107(d)(1), (d)
11 (3) or (f)(1), and amendments thereto, or a controlled substance analog
12 thereof.

13 (b) It shall be unlawful for any person to possess any of the following
14 controlled substances or controlled substance analogs thereof:

15 (1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-
16 4109(b) or (c) or 65-4111(b), and amendments thereto;

17 (2) any stimulant designated in K.S.A. 65-4105(f), 65-4107(d)(2), (d)
18 (4), (d)(5) or (f)(2) or 65-4109(e), and amendments thereto;

19 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-
20 4107(g) or 65-4109(g), and amendments thereto;

21 (4) any substance designated in K.S.A. 65-4105(g) and 65-4111(c),
22 (d), (e), (f) or (g), and amendments thereto;

23 (5) any anabolic steroids as defined in K.S.A. 65-4109(f), and
24 amendments thereto;

25 (6) any substance designated in K.S.A. 65-4113, and amendments
26 thereto; or

27 (7) any substance designated in K.S.A. 65-4105(h), and amendments
28 thereto.

29 (c) (1) Violation of subsection (a) is a drug severity level 5 felony.

30 (2) Except as provided in subsection (c)(3):

31 (A) Violation of subsection (b) is a class A nonperson misdemeanor,
32 except as provided in subparagraph (B); and

33 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug
34 severity level 5 felony if that person has a prior conviction under such
35 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially

1 similar offense from another jurisdiction, or under any city ordinance or
2 county resolution for a substantially similar offense if the substance
3 involved was 3, 4-methylenedioxyamphetamine (MDMA), marijuana
4 as designated in K.S.A. 65-4105(d), and amendments thereto, or any
5 substance designated in K.S.A. 65-4105(h), and amendments thereto, or an
6 analog thereof.

7 (3) If the substance involved is marijuana, as designated in K.S.A.
8 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as
9 designated in K.S.A. 65-4105(h), and amendments thereto, violation of
10 subsection (b) is a:

11 (A) Class B nonperson misdemeanor, except as provided in
12 subparagraphs (B) and (C);

13 (B) class A nonperson misdemeanor if that person has a prior
14 conviction under such subsection, under K.S.A. 65-4162, prior to its
15 repeal, under a substantially similar offense from another jurisdiction, or
16 under any city ordinance or county resolution for a substantially similar
17 offense; and

18 (C) drug severity level 5 felony if that person has two or more prior
19 convictions under such subsection, under K.S.A. 65-4162, prior to its
20 repeal, under a substantially similar offense from another jurisdiction, or
21 under any city ordinance or county resolution for a substantially similar
22 offense.

23 (d) It shall be an affirmative defense to prosecution under this section
24 arising out of a person's possession of:

25 (1) Any cannabidiol treatment preparation if the person:

26 ~~(A)~~(A) Has a debilitating medical condition, as defined in K.S.A.
27 2024 Supp. 65-6235, and amendments thereto, or is the parent or guardian
28 of a minor child who has such debilitating medical condition;

29 ~~(B)~~(B) is possessing a cannabidiol treatment preparation, as defined in
30 K.S.A. 2024 Supp. 65-6235, and amendments thereto, that is being used to
31 treat such debilitating medical condition; and

32 ~~(C)~~(C) has possession of a letter, at all times while the person has
33 possession of the cannabidiol treatment preparation, that:

34 ~~(A)~~(i) Shall be shown to a law enforcement officer on such officer's
35 request;

36 ~~(B)~~(ii) is dated within the preceding 15 months and signed by the
37 physician licensed to practice medicine and surgery in Kansas who
38 diagnosed the debilitating medical condition;

39 ~~(C)~~(iii) is on such physician's letterhead; and

40 ~~(D)~~(iv) identifies the person or the person's minor child as such
41 physician's patient and identifies the patient's debilitating medical
42 condition; and

43 (2) *marijuana, as designated in K.S.A. 65-4105(d), and amendments*

1 *thereto, or tetrahydrocannabinols, as designated in K.S.A. 65-4105(h),*
2 *and amendments thereto, if the person:*

3 *(A) Is a resident of this state;*

4 *(B) is a disabled veteran; and*

5 *(C) has a valid medical marijuana card issued to such person by any*
6 *state.*

7 *(e) It shall not be a defense to charges arising under this section that*
8 *the defendant was acting in an agency relationship on behalf of any other*
9 *party in a transaction involving a controlled substance or controlled*
10 *substance analog.*

11 *(f) As used in this section, "disabled veteran" means a person who:*

12 *(1) Served in the active military, naval, air or space service and who*
13 *was discharged or released therefrom under an honorable discharge or a*
14 *general discharge under honorable conditions; and*

15 *(2) received a disability that was incurred or aggravated in the line*
16 *of duty in the active military, naval, air or space service.*

17 *Sec. 2. K.S.A. 21-5706 is hereby repealed.*

18 *Sec. 3. This act shall take effect and be in force from and after its*
19 *publication in the statute book.*