



Kansas Bureau of Investigation

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**Neutral Testimony on Senate Bill 263
Before the House Standing Committee on Agriculture
Katie Whisman, Executive Officer
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Chairman Hoffman and Members of the Committee,

Thank you for the opportunity to provide neutral testimony on Senate Bill 263, which proposes to create the alternative crop research act.

Senate Bill 263, as amended, appears to be compliant with Section 7606 of the Agricultural Act of 2014 and limits the cultivation and possession of industrial hemp, grown from certified seed, to the Kansas Department of Agriculture, one pilot program, and state educational institutions for research purposes only.

The Senate Committee adopted several amendments proposed by law enforcement that did not change the intent of Senate Bill 263 but made compliance practical while ensuring certain measures be addressed in rules and regulations to be promulgated by the Department of Agriculture. The bill was further amended by the Senate Committee of the Whole. **We urge the Committee to keep the following amendments in place:**

- Within New Section 1, the removal of the *tetrahydrocannabinol* definition on page 2, lines 7 through 11, and the addition of the *delta-9 tetrahydrocannabinol concentration* definition on page 1, lines 15 through 18.
 - This definition defines how the THC concentration will be measured, a definition critical to ensure consistency of measure for both regulatory oversight and enforcement of criminal violations.
- Within New Section 2, the addition of licensing requirements and a requirement for the Department of Agriculture to annually license participants, on page 2, lines 36 through 43 and on page 3, lines 1 through 25.
 - Because federal regulation requires agencies to have explicit statutory authority for performing criminal history records checks, the addition of this language was required to give the Department the authority to perform those checks for purposes of licensure. This could not have been accomplished through the promulgation of rules and regulations.
- Within New Section 2, on page 3, lines 28 through 33, the addition of language requiring license holders to possess their current license while engaging in activities authorized by the act.

- Within New Sections 1 and 2, the removal of the definitions of *grower* and *person* and striking references throughout.

There were two separate amendments adopted by the Senate Committee of the Whole which collectively exempted industrial hemp from the definitions of marijuana in Chapter 65, the Kansas Uniform Controlled Substances Act, and in Chapter 21, which governs crimes involving controlled substances. In both cases, as written, the exemptions from the marijuana definitions are specific to the Alternative Crop Research Act. The relevant portions of these amendments appear on page 7, lines 14 through 25, and on page 12, lines 13 through 24.

One of those floor amendments also amended subsection (*h*) of K.S.A. 65-4105, which is Schedule I of the Kansas Uniform Controlled Substances Act. As seen on page 21, lines 4 and 5, the change seems to have exempted industrial hemp from the definition of cannabinoids. We struggle to understand the utility of this amendment. Hemp and marijuana are both varieties of the cannabis plant; cannabinoids are naturally occurring chemical compounds unique to the cannabis plant.

If the intent of this amendment was to legalize cannabidiol (CBD), it was not accomplished. While we do not believe the intent was to broadly legalize tetrahydrocannabinol (THC), we believe that is the consequence. The way this was crafted effectively creates a situation where a person or entity could legally extract, isolate, and produce completely legal THC concentrates. There is no way to scientifically determine whether any cannabinoid, THC or otherwise, came from hemp or marijuana. Practically speaking, someone could produce THC concentrates from marijuana, claim to have extracted it from hemp, and there would be no legal consequence. **We urge the Committee to strike the language added to page 21, lines 4 and 5.**

Because Senate Bill 263, as amended, limits the cultivation and possession of industrial hemp, grown from certified seed, to the Kansas Department of Agriculture, one pilot program, and state educational institutions *for research purposes only* and *does not* allow persons outside of those controlled environments to possess and/or cultivate industrial hemp, our concerns with regard to a requirement for forensic laboratories to quantitate THC concentration are minimized. Based on this assumption, we do not anticipate any immediate or quantifiable fiscal impact with SB 263 as written.

Lastly, we feel it important to inform the Committee that industrial hemp and marijuana are both varieties of the cannabis plant and have the same taxonomy. From a practical standpoint, there is no way, scientifically or otherwise, to differentiate between the two, or to prove or disprove that a product was cultivated by an entity authorized to do so under the act. Such determinations, if necessary in evaluating criminal conduct, would require THC quantitation which is a capability the KBI does not currently possess.

If possession and/or cultivation are expanded beyond what would be authorized pursuant to Senate Bill 263 as amended by the Senate Committee of the Whole, the KBI expects a significant operational and fiscal impact to the Forensic Science Laboratory.

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