

My name is Nick Reinecker from Inman Kansas. Maybe I have my tin foil hat on too tight, maybe I am having a knee jerk reaction, or maybe I am just chronically upset with the repugnant nature of cannabis prohibition that I spent hours last night pouring over this proposed legislation in hopes of finding a way to avoid sending in any testimony. You be the judge. This bill adds language to K.S.A. 22-2512 that may not (or may) be what the legislature intends it to be used for. I am not a lawyer so I am just extrapolating, through my own analysis as a concerned citizen, an interpretation and utilization trajectory that could possibly happen with the passage of this bill.

Section 1(a) on page 1, line 12: *If no criminal charges are filed or prosecution is declined, the property shall be returned to its rightful owner or disposed of in accordance with this section.*

Section 1(b)(1) adds *dangerous drugs*, that currently includes cannabis aka marijuana as property that may be disposed of except for a properly recorded representative sample, also included in this bill as newly defined in Section 1(b)(3)(c) on pg2 line 19.

Section 1(d)(2) on page 4, line7: *If the law enforcement agency determines that the individual authorized to retrieve a weapon pursuant to paragraph (1) is prohibited by state or federal law from possessing the seized weapon, the agency shall notify the individual that the weapon will not be returned due to the disqualifying law, which shall be described in the notice.*

Scenario #1

An individual is witness to an aggravated assault. This individual is carrying a concealed handgun and intervenes. He/she evaluates the situation and through whatever circumstances, concludes the only option he/she has is to eliminate the threat by the use of deadly force. Law Enforcement arrives and for their safety detains this individual. Upon initial search for other weapons, they find a small amount of cannabis in possession of the shooter. Law Enforcement seizes the cannabis and the firearm, then discretionally decides to arrest for possession of a controlled substance. Long story short, the prosecuting attorney discretionally decides there is no evidence of wrongdoing in the shooting and also declines to prosecute the controlled substance violation. Since the cannabis and firearm are no longer needed for evidence the cannabis is forfeited and with this new language the firearm may not be returned.

Scenario #2

A vehicle is pulled over for speeding. During the traffic stop 20 pounds of cannabis is found and seized. Law Enforcement records a representative sample and then disposes the rest of the contraband for investigative use during the statute of limitations duration, regardless of the end result this could be abused.

If my extrapolation is correct, are these scenarios acceptable to this body as sound public policy that provides for constitutional public safety notwithstanding the rule and letter of the law? In my opinion, no, but I also believe that the exemption of alcohol, with the inclusion of cannabis in the controlled

substances act is asinine as well. That is why it is up to you to evaluate and set policy as you see fit, being duly elected by the citizens of Kansas. Thank you for your consideration and indulgence.

Kansas Personal and Family Protection Act Frequently Asked Questions K.S.A 75-7c01 et. seq. Last updated August 2019

<https://ag.ks.gov/docs/default-source/documents/concealed-carry-faqs.pdf?sfvrsn=6>

EXAMPLE: Two months ago, I pled no contest to a misdemeanor controlled substance charge. There were no firearms in my possession and no one was hurt...I just forgot I had a little pot on me when I was stopped by the cops. Am I eligible for a CCHL since the conviction was not for a felony and there was no gun possessed or otherwise involved? No. Federal law and state law prohibit those who are “unlawful users of” or “addicted to” controlled substances. Federal law, specifically 27 CFR 478.11 defines what that term means. Included within that definition are individuals who have been convicted of a drug offense within the past year. Other categories include, but may not necessarily be limited to: individuals who were arrested for a controlled substance/drug offense within the past year and have another arrest within the past 5 years; positive drug tests within the past year; admitted drug use within the past year; possession of paraphernalia that tests positive for controlled substance use.

[ATF eRegulations 27 CFR Part 478](#)

<https://regulations.atf.gov/478-11/2019-24301#478-11-p3191938463>

Controlled substance. A drug or other substance, or immediate precursor, as defined in section 102 of the Controlled Substances Act, [21 U.S.C. 802](#). The term [includes](#), but is not limited to, marijuana, depressants, stimulants, and narcotic drugs. The term does not [include](#) distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in Subtitle E of the Internal Revenue Code of 1986, as amended.

Unlawful user of or addicted to any controlled substance. A [person](#) who uses a [controlled substance](#) and has lost the power of self-control with reference to the use of [controlled substance](#); and any [person](#) who is a current user of a [controlled substance](#) in a manner other than as prescribed by a licensed physician. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use has occurred recently enough to indicate that the individual is actively engaged in such conduct. A [person](#) may be an unlawful current user of a [controlled substance](#) even though the substance is not being used at the precise time the [person](#) seeks to acquire a [firearm](#) or receives or possesses a [firearm](#). An inference of current use may be drawn from evidence of a recent use or possession of a [controlled substance](#) or a pattern of use or possession that reasonably covers the present time, e.g., a conviction for use or possession of a [controlled substance](#) within the past year; multiple arrests for such offenses within the past 5 years if the most recent arrest occurred within the past year; or [persons](#) found through a drug test to use a [controlled substance](#) unlawfully, provided that the test was administered within the past year.