

Kansas Peace Officers' Association



INCORPORATED

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Testimony to the Senate Public Health and Welfare Committee

In Opposition to SB113

March 14, 2019

Chairman Suellentrop and Committee members:

The Kansas Peace Officers Association, representing over 3000 law enforcement professionals across the state, stands in opposition to SB113. Our association has long held we are not opposed to cannabis-based medications, but we are strongly opposed to legalizing marijuana use through methods inconsistent with the safety net of pharmaceutical processes. This opposition is focused on the sale of products through corner head shops and home grows. The methods used in most states for medical marijuana have insufficient controls on quality, safety, THC and CBD concentration, and product safety. Medical marijuana is driven more by marijuana advocates with mixed results and validity in available studies.

Our first point of concern is that marijuana continues to be illegal under federal law. While federal prosecutors usually limit their prosecutorial actions on drugs based on quantities and scope of the violation, this bill may be pushing those limits because of how broadly inclusive it is on ailments and exemptions from things prohibited in federal law. We should not forget the dilemma a law passed several years ago placed some of our southeast Kansas citizens in when they engaged in acts the legislature deemed lawful, which were unlawful under federal law. In that case, Kansas citizens acted under the state law only to find themselves being prosecuted, convicted, and sentenced for the federal law violation. Convictions that were upheld in federal appeals. Since the marijuana products being authorized by state law in this bill are clearly in violation of federal law, we could be setting up Kansans for this same fate.

Progress is being made in developing these drugs in the existing pharmaceutical processes. Those processes will assure quality control, dosage control, and proper physician oversight. But marijuana convenience store sales cannot provide any such assurance. Prescription drugs are highly tested and regulated by the Food and Drug Administration. No matter what drugstore fills a prescription, the patient is receiving the same vetted drug, whether it is brand name or generic, at a specific dose. Marijuana "prescriptions" in states where medical marijuana exists allows "patients" who obtain a medical marijuana card, to go to a variety of marijuana stores where each store has different varieties of marijuana with different THC levels.

Marijuana "edibles" are often packaged like candy or snacks with the information that it contains THC in small print. Many times the recommendation is to eat a small portion of one item, such as 1/2 of a cookie because edibles have a delayed reaction. This deceptive packaging may lead to a child or an adult unknowingly ingesting a high amount of THC. Bottles containing prescription drugs are regularly child resistant. Marijuana edibles packing is not.

The definition of "Adequate Supply" (page 1, lines 17-23 is very broad. A 3-month supply is significantly more than what is reasonably necessary "to ensure the uninterrupted availability."

The list of "Qualifying medical conditions" is so extensive it is doubtful most people could not qualify. (Page 2, line 16-page 3, line 4) The provision on page 3, line 3, which directs the board of pharmacy to include any "pain,

suffering or debility and for which there is credible evidence. . . that the medical use of cannabis could benefit. . .” is particularly broad. There is a big difference between “evidence it could benefit” and scientific “evidence it does provide a benefit.” The bill language is a pretty low bar. This definition pretty much makes this a full legalization bill.

The provision on page 3, line 35-page 4 line 3, along with the definition of “adequate supply” authorizes the user to possess in any location at any time large quantities of marijuana that today would be indications of significant drug trafficking. This, when considered with the extensive list of “qualifying medical conditions” will likely make black markets of marijuana flourish with the licensing system being a mechanism to make it difficult to establish illegal sales under the provisions of the bill.

If medical marijuana is passed in Kansas, enforcement is, frankly, going to be a nightmare. One person in a household having a medical marijuana prescription is going to allow carte blanche for other residents or visitors to ingest marijuana should they choose to do so. Unless a law enforcement officer sees someone who does not have a marijuana prescription, in the act of smoking marijuana or eating a marijuana edible, it will be difficult to impossible to prove in court. Smelling marijuana smoke or raw marijuana will likely no longer suffice as probable cause for an arrest or for a search warrant. Enforcing a provision of only Kansas supplied marijuana will be impossible.

Additionally, police departments and sheriff's offices of all sizes have invested tens of thousands of dollars in drug detection dogs. Once the odor of marijuana is imprinted on a dog's brain, a dog cannot be "untrained" to ignore marijuana odor. This will cause a substantial financial investment to replace the drug detection dogs. And, assuming medical marijuana is not allowed in schools or for people under the age of 21, it will increase the total number of drug dogs needed - those that detect marijuana and those that do not detect marijuana.

It is concerning that the disqualifying felony convictions only include drug violations. We believe there is concern with persons convicted of other felonies, particularly certain person felonies, to be working in an industry distributing a drug which can influence illegal behavior. For example, do we really want a person convicted of rape, child sex crime, murder, aggravated assault/battery, etc. to be licensed to cultivate, process, sell and distribute marijuana? Wouldn't we want licensure requirement to be at least as stringent as they are for alcohol licenses? Do we want persons in the country illegally to be licensees? (For example, see KSA 41-2623 and 41-311)

The provisions on page 19, line 9 appears to allow licensees to deal in many more drugs than just marijuana. If we are interpreting this correctly this is very troubling. Likewise, the provision on page 24, lines 21-24 appears to allow a distribution or manufacturing licensee to deal in paraphernalia beyond that used for marijuana, since the language allows the exemption “whose distribution and manufacture” is allowed under the act, but doesn't limit the use of the paraphernalia to actions authorized under the act.

That is not our only concerns with this bill. But it is a start and significant enough it should raise doubt to the wisdom of moving this bill forward.

In our opinion, this bill has all the appearances of being designed to go much further than just medical marijuana. It would likely undermine efforts to enforce other illegal drug activity because of how broadly the exemptions as we have explained above are written. This bill is opening marijuana, and probably many other drugs, to near full legalization. The Committee should be very cautious of the underlying intent and the unintended consequences with which it is riddled.

The extremely broad scope of covered diseases and exemptions in this bill demonstrate there are many unintended consequences that are difficult to spot in the bill. We encourage the committee to not move this bill forward.

Deputy Chief Paul Schliffke