

SENATE BILL No. 489

By Committee on Ways and Means

3-7

1 AN ACT concerning health and healthcare; relating to medical hemp
2 preparation treatments; establishing registration for patients ~~and~~
3 ~~establishments~~; protecting from arrest, prosecution or discrimination
4 for authorized use.
5

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

7 Section 1. The provisions of sections 1 through 12, and amendments
8 thereto, shall be known and may be cited as Otis's law.

9 Sec. 2. As used in this act, unless the context requires otherwise:

10 (a) "Cannabis" means all parts of all varieties of the plant cannabis
11 sativa L. not exceeding 3% tetrahydrocannabinol by weight.

12 (b) "Cardholder" means a patient or a designated caregiver to whom
13 the department has issued a medical hemp preparation registration card or
14 who has documentation that is deemed to be a medical hemp preparation
15 registration card.

16 (c) "Designated caregiver" means a person who:

17 (1) Is either at least 21 years of age or a parent of a patient;

18 (2) has significant responsibility for managing the well-being of a
19 patient; and

20 (3) has been approved by the department to assist a patient in
21 obtaining medical hemp preparations.

22 (d) "Department" means the Kansas department of health and
23 environment.

24 (e) "Medical hemp preparation" means cannabis plant material that is
25 no more than 3% tetrahydrocannabinol by weight or an extract, mixture or
26 preparation containing cannabis plant material that is no more than 3%
27 tetrahydrocannabinol by weight.

28 ~~(f) "Medical hemp preparation center agent" means an owner, officer,~~
29 ~~board member, employee, volunteer, contractor, property owner or~~
30 ~~landlord of a registered medical hemp preparation center.~~

31 ~~(g) "Medical hemp establishment" means a registered medical hemp~~
32 ~~preparation center or a registered medical hemp testing laboratory.~~

33 (h) "Medical use" includes the acquisition, administration, delivery,
34 possession, purchase, transfer, transportation or use of hemp preparations
35 and paraphernalia relating to the administration of hemp preparations to
36 treat or alleviate a patient cardholder's qualifying medical condition.

1 (i) "Parent" means a parent or legal guardian responsible for the
2 medical care of a patient under the age of 18.

3 (j) "Patient" means an individual who has been diagnosed with a
4 qualifying medical condition.

5 (k) "Physician" means a person who is licensed by the state board of
6 healing arts to practice medicine and surgery.

7 (l) "Qualifying medical condition" means a condition causing
8 seizures, including those characteristic of epilepsy, Alzheimer's disease,
9 cancer, multiple sclerosis or post-traumatic stress disorder.

10 ~~(m) "Registered medical hemp preparation center" means an entity
11 registered pursuant to section 9, and amendments thereto, that acquires,
12 possesses, cultivates, transports and manufactures cannabis, medical hemp
13 preparations and related paraphernalia and transfers, transports, sells,
14 supplies or dispenses medical hemp preparations, paraphernalia related to
15 hemp preparations and related supplies and educational materials to
16 cardholders, visiting cardholders and other registered medical hemp
17 preparation centers.~~

18 ~~(n) "Registered testing laboratory" means an entity registered
19 pursuant to section 9, and amendments thereto, to analyze the safety and
20 potency of cannabis.~~

21 (o) "Registration card" means a card issued by the department
22 pursuant to section 3, and amendments thereto.

23 ~~(p) "Testing laboratory agent" means an owner, officer, board
24 member, employee, volunteer, contractor, property owner or landlord of a
25 registered testing laboratory.~~

26 (q) "Written certification" means a document signed and dated by a
27 physician stating that, in the physician's professional opinion, the patient
28 may receive therapeutic or palliative benefit from the use of medical hemp
29 preparations to treat or alleviate the patient's qualifying medical condition
30 or symptoms associated with such patient's qualifying medical condition.

31 (r) "Visiting cardholder" means a person who:

32 (1) Has been diagnosed with a qualifying medical condition or is the
33 parent, child, sibling, spouse, domestic partner, grandparent, grandchild or
34 personal aide of an individual who has been diagnosed with a qualifying
35 medical condition;

36 (2) possesses a valid registration card, its equivalent or other
37 documentation that allows the person to possess medical hemp
38 preparations in another state or jurisdiction pursuant to the laws of the
39 other state or jurisdiction;

40 (3) is not a resident of Kansas or has been a resident of Kansas for
41 fewer than 30 days; and

42 (4) has submitted any required documentation to the department, if
43 the department has required registration.

And by redesignating subsections, paragraphs,
subparagraphs and clauses accordingly

1 (5) at a cardholder's request, the department confirming such
2 cardholder's status as a cardholder to a third party, such as a landlord,
3 school, medical professional or court; and

4 (6) provided that no identifying information pertaining to
5 cardholders, visiting cardholders, or physicians is disclosed:

6 (A) The department releasing data that was voluntarily submitted by
7 cardholders and visiting cardholders on the effectiveness and any side
8 effects of medical hemp preparations to researchers at institutions of
9 higher education; and

10 (B) the department releasing information on the number of patients
11 and designated caregivers approved, the number of registry identification
12 cards revoked and aggregate information from voluntary reports on the
13 effectiveness of medical hemp preparations and any side effects patients
14 have experienced.

15 (d) Within 120 days of the effective date of this act, the department
16 shall establish a secure phone or web-based verification system. Such
17 verification system must allow law enforcement personnel, ~~medical hemp~~
18 ~~establishments and medical hemp establishment agents~~ to enter a registry
19 identification number and determine whether or not the number
20 corresponds with a current, valid registration card. The system may
21 disclose only whether the registration card is valid, the name of the
22 cardholder and whether the cardholder is a registered patient or a
23 designated caregiver. The department may also include visiting
24 cardholders in the database.

25 Sec. 5. (a) Not later than 120 days after the effective date of this act,
26 the department shall adopt rules and regulations to establish:

27 (1) The form and content of registration and renewal applications
28 submitted under this act and registration cards;

29 ~~(2) the number of testing laboratories that will be allowed in the state,~~
30 ~~which may not be fewer than two;~~

31 ~~(3) the number of medical hemp preparation centers that will be~~
32 ~~allowed in the state, which shall be no fewer than is reasonably necessary~~
33 ~~to ensure safe, steady access to hemp preparations to cardholders located~~
34 ~~throughout the state and no fewer than a total of three centers;~~

35 ~~(4) a system to numerically score competing medical hemp~~
36 ~~establishment applicants, which must include analysis of:~~

37 ~~(A) The suitability of the proposed location of a medical hemp~~
38 ~~preparation center and its accessibility to patients;~~

39 ~~(B) the character, veracity, background and relevant experience of~~
40 ~~principal officers and board members; and~~

41 ~~(C) the business plan proposed by the applicant, which in the case of~~
42 ~~medical hemp preparation centers shall include the ability to maintain an~~
43 ~~adequate supply of medical hemp preparations, plans to ensure safety and~~

1 ~~security of patrons and the community and procedures to be used to~~
2 ~~prevent theft or diversion;~~
3 ~~(5) requirements for medical hemp establishments to prevent~~
4 ~~diversion and theft and ensure safety, without imposing an undue burden~~
5 ~~or compromising the confidentiality of cardholders, including:~~
6 ~~(A) Oversight requirements;~~
7 ~~(B) recordkeeping requirements;~~
8 ~~(C) security requirements, including at a minimum, lighting, physical~~
9 ~~security, transportation, waste destruction, video and alarm;~~
10 ~~(D) health and safety requirements, including prohibiting the use of~~
11 ~~harmful pesticides; and~~
12 ~~(E) restrictions on advertising and signage;~~
13 ~~(6) minimum requirements and procedures for the safe and accurate~~
14 ~~packaging and labeling of medical hemp preparations including~~
15 ~~requirements to:~~
16 ~~(A) Disclose whether the medical hemp preparation is organic or non-~~
17 ~~organic;~~
18 ~~(B) specify the length of time it typically takes for a product to take~~
19 ~~effect;~~
20 ~~(C) print a nutritional fact panel on all edible and potable product~~
21 ~~containers, including a list of ingredients and possible allergens; and~~
22 ~~(D) include a unique serial number that will match the product with a~~
23 ~~medical hemp preparation center batch and lot number, so as to facilitate~~
24 ~~any warnings or recalls;~~
25 ~~(7) procedures for random sample testing to ensure that medical hemp~~
26 ~~preparations available to cardholders and visiting cardholders are~~
27 ~~accurately labeled for content and potency, in accordance with standards~~
28 ~~established by the department to ensure the health and safety of patient~~
29 ~~cardholders;~~
30 ~~(8) procedures for initiating mandatory and voluntary recalls of hemp~~
31 ~~preparations; and~~
32 ~~(9) procedures for suspending or terminating the registration~~
33 ~~certificates or registration cards of cardholders or medical hemp~~
34 ~~establishments that commit multiple or serious violations of the provisions~~
35 ~~of this act or any rules and regulations adopted thereunder.~~
36 (b) The department may adopt rules and regulations to:
37 (1) Establish a presumptive maximum quantity of medical hemp
38 preparations that a cardholder or visiting cardholder may possess, provided
39 that:
40 (A) The amount should be no less than a reasonable 60-day supply;
41 and
42 (B) a patient may apply for a waiver if a physician provides a
43 substantial medical basis in a signed, written statement asserting that,

1 based on the patient's medical history, in the physician's professional
2 judgment, the amount established by the department is an insufficient
3 amount to properly alleviate the patient's qualifying medical condition or
4 symptoms associated with such medical condition; and

5 (2) require a visiting cardholder to submit a healthcare professional's
6 statement confirming that the patient has a qualifying medical condition
7 and documentation demonstrating that the visiting cardholder is authorized
8 to possess cannabis or medical hemp preparations in the state or
9 jurisdiction where such person resides. If the department requires visiting
10 cardholders to submit such documentation, the department shall issue
11 confirmation to the individual no later than seven calendar days after such
12 documentation is submitted.

And by redesignating subsections, paragraphs,
subparagraphs and clauses accordingly

13 Sec. 6. The department shall adopt rules and regulations to establish
14 fees for applications, registration cards ~~and medical hemp establishment~~
15 ~~registration certificates~~ subject to the following requirements:

and

16 (a) Fees established under this section shall be no greater than the
17 amount reasonably necessary to cover the cost the department incurs to
18 implement the provisions of this act. Fees established for registration cards
19 or visiting cardholder documentation shall be no greater than the amount
20 reasonably necessary to cover the cost of processing registration cards.

21 (b) Any fee structure established by the department must incorporate
22 a sliding scale for cardholders who receive medicaid, supplemental
23 security income or social security disability insurance benefits.

24 (c) The department shall collect fees for the following, not to exceed:

25 Medical hemp preparation center registration	
26 certificate application	\$5,000
27 Medical hemp preparation center registration	
28 certificate	\$20,000
29 Testing laboratory registration certificate	\$2,000
30 Individual medical hemp preparation	
31 registration card.....	\$75
32 Visiting cardholder documentation.....	\$80

33 Sec. 7. (a) A cardholder or visiting cardholder shall not be subject to
34 arrest, prosecution under state or municipal law or denial of any right or
35 privilege, including, but not limited to, civil penalty or disciplinary action
36 by a court or occupational or professional licensing board or bureau, for
37 the medical use of hemp preparations pursuant to this act.

38 (b) No person may be subject to arrest, prosecution under state or
39 municipal law or denial of any right or privilege, including, but not limited
40 to, civil penalty or disciplinary action by a court or occupational or
41 professional licensing board or bureau, for:

42 (1) Selling medical hemp paraphernalia to ~~a registered medical hemp~~
43 ~~establishment~~, a cardholder or a visiting cardholder;

- 1 (2) being in the presence or vicinity of the use of medical hemp
2 preparations as allowed by this act; or
- 3 (3) assisting a patient with a registration card in the act of using or
4 administering hemp.
- 5 ~~(e) A hemp preparation center or hemp preparation center agent shall
6 not be subject to prosecution under state or municipal law, search or
7 inspection, except by the department pursuant to section 11, and
8 amendments thereto, seizure or penalty in any manner or be denied any
9 right or privilege, including, but not limited to, civil penalty or disciplinary
10 action by a court or business licensing board or entity, for acting pursuant
11 to this act and department rules and regulations to:~~
- 12 ~~(1) Sell cannabis seeds to similar entities that are registered to
13 dispense cannabis for medical use in other jurisdictions;~~
- 14 ~~(2) acquire, cultivate, grow, harvest, manufacture, plant, possess,
15 prepare, propagate, transport or store cannabis, hemp paraphernalia and
16 medical hemp preparations;~~
- 17 ~~(3) deliver, dispense, supply, sell, transfer or transport medical hemp
18 preparations, paraphernalia for use with medical hemp preparations or
19 related supplies and educational materials to cardholders and visiting
20 cardholders;~~
- 21 ~~(4) deliver, dispense, transfer, transport, sell or supply cannabis seeds,
22 cannabis seedlings, cannabis plants, cannabis, medical hemp preparations
23 or related supplies and educational materials to other medical hemp
24 preparation centers; or~~
- 25 ~~(5) deliver, transfer or transport cannabis or medical hemp
26 preparations to registered testing laboratories.~~
- 27 ~~(d) A registered testing laboratory and testing laboratory agent acting
28 on behalf of a testing laboratory shall not be subject to prosecution under
29 state or municipal law, search, except by the department pursuant to
30 section 11, and amendments thereto, seizure or penalty in any manner, or
31 be denied any right or privilege, including, but not limited to, civil penalty
32 or disciplinary action by a court or business licensing board or entity,
33 solely for acting in accordance with this act and department rules and
34 regulations to provide the following services:~~
- 35 ~~(1) Acquiring, possessing, storing, analyzing, testing or transporting
36 cannabis obtained from medical hemp preparation centers and medical
37 hemp preparations obtained from cardholders, visiting cardholders or
38 hemp preparation centers;~~
- 39 ~~(2) possessing, storing or transporting hemp paraphernalia;~~
- 40 ~~(3) returning medical hemp preparations to cardholders or medical
41 hemp preparation centers; or~~
- 42 ~~(4) receiving compensation for actions allowed under this section.~~
- 43 (e) Mere possession of, or application for, a registration card or

1 ~~medical hemp establishment registration~~ shall not constitute probable
 2 cause or reasonable suspicion, nor shall it be used to support the search of
 3 the person, property or home of the person possessing or applying for the
 4 registration card. The possession of, or application for, a registration card
 5 ~~or registration certificate~~ shall not preclude the existence of probable cause
 6 if probable cause exists on other grounds.

7 (f) For the purposes of state law, the use of medical hemp
 8 preparations by a cardholder or visiting cardholder ~~and activities that a~~
 9 ~~registered medical hemp establishment is registered to engage in~~ shall be
 10 considered lawful, as long as they are undertaken in accordance with this
 11 act.

12 Sec. 8. (a) For the purposes of medical care, including organ and
 13 tissue transplants, a patient's use of medical hemp preparations in
 14 accordance with this act is the equivalent of the authorized use of any
 15 other medication in accordance with a prescription issued by a physician
 16 and does not constitute the use of an illicit substance or otherwise
 17 disqualify a patient cardholder from needed medical care.

18 (b) A person otherwise entitled to custody of or visitation or parenting
 19 time with a minor shall not be denied such a right, and there shall be no
 20 presumption of neglect or child endangerment, for conduct allowed by this
 21 act unless the person's actions in relation to medical hemp preparations
 22 were such that they created an unreasonable danger to the safety of the
 23 minor as established by clear and convincing evidence.

24 Sec. 9. (a) This act does not authorize any person to engage in, and
 25 does not prevent the imposition of any civil, criminal or other penalties for
 26 engaging in the following conduct:

27 (1) Undertaking any task under the influence of medical hemp
 28 preparations when doing so would constitute negligence or professional
 29 malpractice; or

30 (2) operating, navigating or being in actual physical control of any
 31 motor vehicle, aircraft or motorboat while impaired by medical hemp
 32 preparations.

33 (b) Nothing in this act requires a government medical assistance
 34 program or private insurer to reimburse a person for costs associated with
 35 the use of medical hemp preparations.

36 Sec. 10. ~~(a) Any person who operates a medical hemp establishment~~
 37 ~~must first submit an application form to the department and receive~~
 38 ~~approval. Each application must be for a single type of medical hemp~~
 39 ~~establishment.~~

40 ~~(b) No later than 120 days after the effective date of this act, the~~
 41 ~~department shall begin accepting applications for hemp preparation centers~~
 42 ~~and testing laboratories.~~

43 ~~(c) Except as otherwise provided in this act, not later than 90 calendar~~

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly

1 ~~days after receiving an application to operate a medical hemp~~
2 ~~establishment, the department shall register the medical hemp~~
3 ~~establishment and issue a registration certificate and a random~~
4 ~~identification number if:~~

5 ~~(1) The person or persons who wish to operate the proposed medical~~
6 ~~hemp establishment have submitted to the department all of the following:~~

7 ~~(A) The application fee, as established by the department; and~~

8 ~~(B) an application, which must include:~~

9 ~~(i) The legal name of the proposed medical hemp establishment; and~~

10 ~~(ii) the physical address where the proposed medical hemp~~
11 ~~establishment will be located and the physical address of any co-owned~~
12 ~~additional or otherwise associated medical hemp establishment, so long as~~
13 ~~the location of the proposed medical hemp establishment is not within~~
14 ~~1,000 feet of a public or private school that provides formal education~~
15 ~~traditionally associated with preschool or kindergarten through grade 12,~~
16 ~~which existed on the date on which the application for the proposed~~
17 ~~medical hemp establishment was submitted to the department;~~

18 ~~(C) evidence that the applicant controls not less than \$250,000 in~~
19 ~~liquid assets;~~

20 ~~(D) evidence that the applicant owns the property on which the~~
21 ~~proposed medical hemp establishment will be located or has the written~~
22 ~~permission of the property owner to operate the proposed medical hemp~~
23 ~~establishment on that property;~~

24 ~~(E) the name, address and date of birth of each person who is~~
25 ~~proposed to be an owner, officer or board member of the proposed medical~~
26 ~~hemp establishment;~~

27 ~~(F) operating procedures consistent with rules and regulations of the~~
28 ~~department for oversight of the proposed medical hemp establishment,~~
29 ~~including procedures to ensure the use of adequate security measures;~~

30 ~~(G) if the city, town or, in the case of a location in an unincorporated~~
31 ~~area, county in which the proposed medical hemp establishment will be~~
32 ~~located has enacted zoning restrictions or licensing requirements, proof of~~
33 ~~licensure with the applicable local governmental authority or an~~
34 ~~affirmation signed by the applicant that the proposed medical hemp~~
35 ~~establishment will be in compliance with those restrictions and satisfies all~~
36 ~~applicable zoning requirements; and~~

37 ~~(H) such other information as the department may reasonably require~~
38 ~~by rules and regulations;~~

39 ~~(2) none of the persons who are proposed to be owners, officers or~~
40 ~~board members of the proposed medical hemp establishment have served~~
41 ~~as an owner, officer or board member for a medical hemp establishment~~
42 ~~that has had its medical hemp establishment registration certificate~~
43 ~~revoked; and~~

1 ~~(3) none of the persons who are proposed to be owners, officers or~~
2 ~~board members of the proposed medical hemp establishment are under 21~~
3 ~~years of age.~~

4 ~~(b) When more qualifying applications are submitted for proposed~~
5 ~~hemp preparation centers or testing laboratories than the department will~~
6 ~~approve, the department shall use an impartial and numerically scored~~
7 ~~merit based selection process to determine which application or~~
8 ~~applications to approve. The department may approve the highest scoring~~
9 ~~application or applications in specific geographic regions of the state. The~~
10 ~~department may conduct a background check of the principal officers and~~
11 ~~board members of any prospective hemp preparation center to carry out~~
12 ~~the provisions of this subsection.~~

13 ~~(c) Except as otherwise provided in this act, if an application for~~
14 ~~registration as a medical hemp establishment satisfies the requirements of~~
15 ~~this section and the establishment is not disqualified from being registered~~
16 ~~as a medical hemp establishment pursuant to this act or other applicable~~
17 ~~law, the department shall issue to the establishment a medical hemp~~
18 ~~establishment registration certificate. A medical hemp establishment~~
19 ~~registration certificate expires two years after the date of issuance and may~~
20 ~~be renewed upon:~~

21 ~~(1) Submission of a renewal application; and~~

22 ~~(2) payment of the renewal fee established by the department.~~

23 ~~Sec. 11. (a) Medical hemp establishments are subject to reasonable~~
24 ~~inspection by the department.~~

25 ~~(b) A medical hemp establishment may not employ or accept as a~~
26 ~~volunteer any person who is under 21 years of age.~~

27 ~~(c) The operating documents of a medical hemp establishment must~~
28 ~~include procedures for the oversight of the medical hemp establishment~~
29 ~~and procedures to ensure accurate recordkeeping.~~

30 ~~(d) A medical hemp establishment shall implement appropriate~~
31 ~~security measures designed to deter and prevent:~~

32 ~~(1) The theft of cannabis and hemp preparations; and~~

33 ~~(2) unauthorized entrance into areas containing cannabis or hemp~~
34 ~~preparations.~~

35 ~~(e) Before hemp preparations may be dispensed to a cardholder or~~
36 ~~visiting cardholder, a hemp preparation center agent must:~~

37 ~~(1) Make a diligent effort to verify that the registration card or other~~
38 ~~documentation presented to the hemp preparation center is valid; and~~

39 ~~(2) make a diligent effort to verify that the person presenting the card~~
40 ~~is the person identified on the registration card presented to the hemp~~
41 ~~preparation center agent.~~

42 ~~(f) A hemp preparation center must dispense hemp preparations in a~~
43 ~~sealed container with a label that conforms to department regulations and~~

1 ~~that indicates the hemp preparation's ingredients and its percentages of~~
2 ~~tetrahydrocannabinol and cannabidiol by weight.~~

3 ~~(g) Hemp preparation centers shall collect and submit to the~~
4 ~~department data on strains used, methods of delivery, any side effects~~
5 ~~experienced and the therapeutic effectiveness of hemp preparations for~~
6 ~~each patient who is willing to provide the information. Such data~~
7 ~~collection shall be done under the patient's registry identification number~~
8 ~~to protect the patient's confidentiality.~~

9 Sec. 12. If any provision of this act or the application thereof to any
10 person or circumstance is held invalid, such invalidity shall not affect the
11 application of any other provision of this act that can be given full effect
12 without the invalid provision or application.

13 Sec. 13. This act shall take effect and be in force from and after its
14 publication in the statute book.

And by renumbering sections accordingly

(a) Any patient who is a cardholder pursuant to this act shall obtain or receive medical hemp preparations only from a facility or organization that is verified and approved by the secretary of health and environment. Any violation of this subsection shall constitute the unlawful possession of a controlled substance as defined by K.S.A. 2015 Supp. 21-5706(b)(7), and amendments thereto, and be subject to the penalties prescribed therefor.

(b) The secretary of health and environment shall adopt rules and regulations regarding the verification and approval of dispensing facilities or organizations from which patient cardholders may obtain or receive medical hemp preparations. Such rules and regulations shall include, at a minimum, requirements that the dispensing facility or organization has procedures to:

- (1) Maintain accurate recordkeeping;
- (2) verify a patient cardholder's documentation purporting to allow such cardholder to obtain or possess medical hemp preparations;
- (3) package and label accurately any medical hemp preparations dispensed by the organization or facility, including sealing the preparations in a child-resistant package and indicating the preparation's ingredients and percentages of tetrahydrocannabinol and cannabidiol by weight;
- (4) test samples of medical hemp preparations randomly to verify accuracy of labelling for contents and potency; and
- (5) initiate and facilitate mandatory and voluntary recalls of medical hemp preparations.