



Kansas Bureau of Investigation

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Testimony in Opposition of SB 489
Before the Kansas Senate Standing Committee on Public Health and Welfare
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Chairman O'Donnell and Members of the Committee,

My name is Kirk Thompson and I serve as the Director of the Kansas Bureau of Investigation (KBI). Thank you for the opportunity to present written testimony in opposition to Senate Bill 489. My testimony today will focus on the act cited as "Otis's Law", which purports to legalize the use of hemp treatments for those suffering from debilitating seizure disorders.

I have had the opportunity to review SB 489 and contemplate many of the possible law enforcement, public health, regulatory and public policy related implications that could result from passage of the measure. The act attempts to create a legal path for the use of regulated amounts of cannabis, and more specifically Tetrahydrocannabinol (THC), under the guise of a legitimate medical treatment. What I hope to convey to the committee is the position of our agency and what we believe to be the position of the vast majority of Kansas law enforcement agencies.

Simply put, passage of any bill that would authorize the usage of marijuana in any form and for any purpose is not good for our state. In support of that position I would like to review a couple of main points:

- Hemp, as defined by SB 489 and in practical application, is a cannabis product that contains THC, the psychoactive ingredient in marijuana.
- Marijuana continues to be illegal under federal law. The United States Food and Drug Administration (FDA) and the United States Drug Enforcement Administration (DEA) have consistently and repeatedly rejected marijuana for medicinal use. **Marijuana is classified as a Schedule I drug, which means it has a high potential for abuse and lacks any accepted medical use in the United States.**
- The proponents will argue that cannabidiol (CBD) oil, a cannabis extract, has been found to be an effective treatment for those suffering with debilitating seizure disorders. **It is worth noting that SB 489 does not establish a minimum threshold of CBD concentration for the medical hemp preparations.** It does, however, establish a relatively high THC concentration of 3%.

- SB 489 bill would bypass the safeguards established by the FDA to protect the public from dangerous or ineffective drugs.
- The provisions of this act create a level of conflict with the enforcement of other state and federal laws regarding the possession, distribution and cultivation of marijuana. The potential for a “gray market” for marijuana sales would appear to be significant as a result.
- The bill’s requirements and procedures for packaging and labeling of medical hemp lack elements required to comply with state and federal regulations. Absent identifying information about the patient, the name of the authorizing physician, dispensary, and dates of issuance and expiration on the packaging, there is no reasonable way to establish legal possession. Furthermore, there is nothing in SB 489 that requires a legal cardholder to possess their card in conjunction with any prescribed product. **Broadly exempting a cardholder from arrest or prosecution is essentially granting advance immunity.**
- The potential for reusing “legal packaging” and filling it with illegal marijuana products is tremendous. There are no visual or chemical tests that would allow a police officer, a forensic scientist, a prosecutor, or a judge to distinguish between products produced for medicinal use and those produced in clandestine environments for illegal consumption.
- K.S.A. 21-5701 defines marijuana as all parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.” K.S.A. 65-4105 establishes tetrahydrocannabinol as a schedule I controlled substance, or one that has a high potential for abuse and no currently accepted medical treatment use in the United States. SB 489 creates a new legal definition of cannabis, meaning “all parts of all varieties of the plant cannabis sativa L. not exceeding 3% tetrahydrocannabinol by weight.”
- Marijuana and cannabis, as defined by SB 489, have exactly the same taxonomy – meaning there is no way to scientifically differentiate between the two substances. The only way to determine which category a seized product would fall into would be to determine the THC concentration. **The practical implication of this conflict is that forensic laboratories would have to quantify the THC concentration of marijuana samples collected by a law enforcement officer and submitted to the laboratory when the defense of possession for medical purposes is raised.** The workload is expected to increase substantially and the associated operational and fiscal impacts are significant.
- Legalizing any variety of “cannabis plant material that is no more than 3% tetrahydrocannabinol by weight” carries with it the potential to significantly impact the forensic laboratories by requiring quantitation of many marijuana samples received as evidence. This is an examination in addition to substance identification and an analysis that takes significantly more time. **This is likely to result in increased backlogs and turnaround times or come at a tremendous cost to taxpayers.**

As the lead state criminal investigative agency, our personnel have witnessed, firsthand, the crime, abuse and personal harm that results from the use of illegal drugs. State supported or sanctioned drug dispensaries, operating outside of the current structure for regulating and

determining the safety of substances used as medicine, would, in our opinion, have the potential to exacerbate those negative outcomes.

There are many arguments both pro and con for legalizing the medicinal use of cannabis and cannabis substances. Those arguments could fill days of testimony and pages of well researched documents. In the end, however, we recognize this is a public policy decision. As you give due deliberation to that important decision, please consider the experience and perspective of the KBI and the Kansas law enforcement community, along with the experience and perspective of the FDA and other health professionals. Marijuana (cannabis) has a high potential for abuse and lacks any accepted medical use in the United States. Marijuana is illegal in all forms and should so remain illegal in our state.

Thank you.

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