



# Kansas Bureau of Investigation

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## **Testimony in Opposition to Senate Bill 449 Before the House Standing Committee on Agriculture and Natural Resources**

**Katie Whisman, Executive Officer  
Kansas Bureau of Investigation**

**February 21, 2020**

Chairman Kerschen and Members of the Committee:

My name is Katie Whisman and I serve as the Executive Officer for the Kansas Bureau of Investigation. Thank you for the opportunity to testify in opposition of Senate Bill 449, which proposes to amend the definition of marijuana, thereby legalizing all cannabis and cannabis related products which contain no more than 0.3% tetrahydrocannabinol (THC).

We are opposed to SB 449 in its current form from both a policy perspective, and the operational and fiscal consequences we expect if it were to be passed. SB 449 would effectively make all cannabis and cannabis products containing *less than* 0.3% THC *legal*, and make those containing *more than* 0.3% THC *illegal*. The threshold of legal versus illegal becomes then a question of science. As such, we expect that our Forensic Science Laboratory would be required to perform THC quantitation analysis on *all* evidentiary samples suspected to be cannabis or cannabis derived products for purposes of enabling law enforcement officers and prosecutors to establish the probable cause required to take lawful action pursuant to the commission of criminal violations.

Additionally, SB 449 not only applies to plant material, it would also apply to edibles, beverages, and oils. In the absence of a forensic analysis, it would be impossible to differentiate low THC products from those that contain high concentrations of THC. It is the high concentration edibles that are increasingly popular in states with recreational marijuana programs. Another significant concern for the Forensic Science Laboratory is that SB 449 requires the THC concentration to be measured on a dry weight basis, which is not practical when analyzing liquids or solids.

If, however, the intent of SB 449 is to make Kansas law as permissive as Federal law with regard to the allowance of up to 0.3% THC in products derived from industrial hemp, we would suggest consideration be given to not redefining marijuana in Chapters 21 and 65, but to rather redefine hemp products in the Industrial Hemp Act, in Chapter 2, Article 39.

The passage and enactment of the Agricultural Improvement Act of 2018 allowed states to develop commercial industrial hemp plans subject to the approval of the United States Department of Agriculture. It also made conforming changes to the Controlled Substances Act and exempted hemp from the Schedule I definitions of marijuana and tetrahydrocannabinols. Accordingly, the DEA announced that hemp and hemp-derived CBD preparations that have a 0.3% THC or less are not controlled substances.

With the passage of 2018 SB 263, Kansas law already contains the same exemptions. The one significant difference is that currently, Kansas law prohibits CBD preparations from containing any controlled substances, including but not limited to any amount of THC. There has been tremendous effort put forth by a variety of stakeholders and interested parties over the last three years to craft Kansas' law to serve the agricultural and economic development interests of proponents while minimizing, to the greatest extent possible, significant operational challenges for the criminal justice community. If there is work to amend the definition of hemp products, we urge the body to retain existing product prohibitions as defined in K.S.A. 2-3908, which are vital to law enforcement and the forensic laboratories.

In closing, I'd like to emphasize that Federal law did not redefine marijuana. SB 449 proposes policy far beyond what federal law allows and could be considered a drug legalization bill in its current form. We remain adamantly opposed to any legislation that would propose to legalize marijuana and high concentration products.

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