

Mike Beam, Secretary

Laura Kelly, Governor

**State Agency Testimony to the
2022 Special Committee on Medical Marijuana
by Kansas Department of Agriculture
October 12, 2022**

The Kansas Department of Agriculture (KDA) appreciates the opportunity to provide written comments to the Special Committee on Medical Marijuana.

KDA has presented neutral testimony pertaining to medical marijuana bills and continues to have a neutral position regarding the legalization of any form of marijuana in Kansas in the past. However, KDA maintains that the regulation of marijuana should not be placed with our agency. It is important that KDA's regulation of industrial hemp not be mixed with regulation of medical marijuana due to the federal requirements for industrial hemp production.

The U.S. Department of Agriculture's (USDA) final rule regarding the establishment of a domestic hemp production program (86 FR 5596 and 7 CFR 990 *et seq.*) requires that, prior to being harvested, all industrial hemp must be tested in a laboratory registered by the U.S. Drug Enforcement Agency (DEA). Any lab that is registered by the DEA must agree to comply with all federal laws, which may prohibit handling marijuana since marijuana remains illegal under federal law. Moreover, KDA's obligations regarding industrial hemp may not make it possible for KDA to fulfill the roles of regulating both industrial hemp and medical marijuana without being at risk of having the state's industrial hemp plan revoked by USDA. KDA also has concerns that combining the administration of laws regarding industrial hemp and medical marijuana may create a greater risk of illicit growing of marijuana due to the similar appearance of the crops and the greater security risks involved with marijuana cultivation. Furthermore, KDA has limited expertise to assist with the regulation and operation of private laboratories.

There are also distinct differences in the approaches that have been taken thus far to regulate industrial hemp and medical marijuana, as industrial hemp is an agricultural commodity and medical marijuana is treated as a drug. For this reason, states that have legalized marijuana in some form have chosen to place the regulation of marijuana cultivators and laboratories with their public health department, taxing agency, or liquor/cannabis control agencies. KDA believes a similar regulatory approach would be appropriate should medical marijuana become legal in Kansas.

Finally, KDA believes any bill proposing the legalization of marijuana in any form should be tailored so as to minimize the impact that marijuana production could have on agriculture and natural resources in Kansas, as states that have legalized marijuana have faced critical issues relating to water supply strain, water theft, and pesticide

misuse.¹ Because of the issues relating to water and pesticide use, those states have needed to devote significant monetary and personnel resources to protect natural resources and to prevent further loss.²

KDA remains willing to serve in any advisory capacity where experience with the development of the industrial hemp program may be useful to other agencies and stakeholders as medical marijuana regulations are developed. Otherwise, we ask that any legislation that proposes to legalize medical marijuana assign regulatory duties to a more appropriate state agency.

Thank you for the opportunity to provide written comments to the Special Committee on Medical Marijuana.

¹See Oklahoma House Agriculture Committee, Aug. 31, 2021. <https://www.okhouse.gov/Video/Default.aspx>; Christopher Dillis et al., *Cannabis Farms in California Rely on Wells Outside of Regulated Groundwater Basins*, Environ. Res. Commun. (2021), <https://iopscience.iop.org/article/10.1088/2515-7620/ac1124>; Ariani C. Wartenberg et al., *Cannabis and the Environment: What Science Tells Us and What We Still Need to Know*, Environ. Sci. Technol. Lett. (2021), <https://pubs.acs.org/doi/10.1021/acs.estlett.0c00844>; JK Carah et al., *High Time for Conservation: Adding the Environment to the Debate on Marijuana Liberalization*, National Library of Medicine (2015), <https://pubmed.ncbi.nlm.nih.gov/26955083/>; Zheng et al., *A Narrative Review on Environmental Impacts of Cannabis Cultivation*, J. Cannabis Res. (2021), <https://jcnabrisearch.biomedcentral.com/articles/10.1186/s42238-021-00090-0>.

² Van Butsic, et al., Environ. Res. Lett. (2018), <https://iopscience.iop.org/article/10.1088/1748-9326/aaeade#:~:text=Recent%20empirical%20research%20shows%20that,which%20can%20take%20place%20when>