



Kansas Bureau of Investigation

Kirk D. Thompson
Director

Derek Schmidt
Attorney General

Testimony in Opposition of HB 2182

Before the House Standing Committee on Commerce, Labor, and Economic Development

Kirk D. Thompson, Director
Kansas Bureau of Investigation
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Chairman Mason 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 House Bill 2182, which enacts the Kansas agricultural industry growth act and authorizes development of an industrial hemp industry. Passage of this bill would legalize the cultivation and distribution of products containing tetrahydrocannabinol (THC) in Kansas.

I have had the opportunity to review and contemplate many of the possible law enforcement, regulatory, and public policy related implications that could result from passage of this measure. My opposition to HB 2182 stems from three overarching areas of concern.

My primary concern is that passage of HB 2182 would legalize the presence of tetrahydrocannabinol (THC) at 0.3% or lower in certain products. HB 2182 defines industrial hemp as “the plants and all plant parts of the genera cannabis that do not contain a delta-9 tetrahydrocannabinol concentration more than 0.3% on a dry mass basis, grown from seed certified by a certifying agency”.

Tetrahydrocannabinol is currently a schedule I controlled substance at both the state and federal levels. Schedule I controlled substances are those that have been found to have a high potential for abuse and no currently accepted medical treatment use in the United States.

While the bill indicates industrial hemp will not be considered a controlled substance or marijuana as defined by state law, Section 9 states, in relevant part, “Possession of hemp crop, plant parts, seeds or raw hemp by a grower, distributor or processor...containing a delta-9 tetrahydrocannabinol concentration more than 0.3%...shall not be considered a controlled substance or marijuana as defined by state law for the purpose of criminal prosecution.” It would be a legal defense to possession of marijuana if the person growing or possessing it has a license and acquires it from another grower, distributor or processor who claims to have not known the marijuana did not meet the definition of industrial hemp. This creates many potential issues for prosecutors and the courts because possession of an industrial hemp product would likely be asserted as a defense to possession of illegal marijuana.

Another significant concern is the impact of these defense claims to the forensic laboratory systems in Kansas. Because possession of any products containing THC is illegal under Kansas law, forensic laboratories currently determine whether or not THC is present in an item of evidence and report their findings accordingly. Passage of HB 2182 would create a situation where possession of certain products containing THC would be legal under the provisions of the act. Because industrial hemp and marijuana both come from the same plant – Cannabis Sativa L. – they have the same taxonomy. 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 by way of a forensic laboratory examination that would quantitate the amount present in the sample. The workload is expected to increase substantially and the associated operational and fiscal impacts are significant.

The KBI completed a fiscal impact assessment at the request of Kansas Division of the Budget and reported anticipated additional expenditures of \$816,153 in FY 2018 and \$628,168 in FY 2019. We expect passage of HB 2182 to require THC quantitation on approximately 5,000 evidence submissions per year. Additionally, we would be required to develop a validated method for THC quantitation and purchase specialized analytical instrumentation and supplies to make quantitation possible.

Finally, as written, HB 2182 broadly lacks regulation and leaves many questions unanswered until such time as the Secretary of the Department of Agriculture proposes rules and regulations governing qualifications for licensure, and oversight and enforcement of the act. HB 2182 does not restrict who may apply for and be granted licensure under the act, nor does it include any language to suggest that those who have been approved to grow and distribute products containing THC will be overseen or regulated.

Many of the criminal investigations we conduct each year relate to the manufacturing, cultivation, distribution, and diversion of controlled substances. Passage of HB 2182 is expected to make the investigation and enforcement of Kansas controlled substances laws more challenging, more time consuming and more costly to the taxpayers of this great state.

I would ask the Committee to carefully consider this pivotal public policy decision which is conceivably the first step toward legalizing marijuana in Kansas.

Thank you.

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