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LEGISLATURE of THE STATE of KANSAS  
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**COMPARISON OF MEDICAL MARIJUANA LEGISLATION IN HOUSE SUBSTITUTE FOR SB 158 AND SB 560**

Jason B. Long, Senior Assistant Revisor

October 12, 2022

Issue	House Substitute for SB 158 Kansas Medical Marijuana Regulation Act	SB 560 Medical Marijuana Regulation Act
<b>General Administration and Regulation Provisions</b>		
Effective Date	<ul style="list-style-type: none"> <li>Legislation is effective July 1, 2022, with rules and regulations required by July 1, 2023.</li> </ul>	<ul style="list-style-type: none"> <li>Legislation is effective July 1, 2023, with rules and regulations required by January 1, 2024, except rules and regulations for certifying physicians are required by September 1, 2023.</li> </ul>
State Preemption	<ul style="list-style-type: none"> <li>State law provides the exclusive authority to grow, harvest, process, sell, barter, transport, deliver, furnish, or otherwise possess marijuana.</li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>
Administration of Act	<ul style="list-style-type: none"> <li>Dept of Health and Environment (KDHE) regulates patient and caregiver registration and issues identification cards.</li> <li>Division of Alcoholic Beverage Control (ABC) regulates and licenses cultivators, laboratories, processors, distributors, and retail dispensaries.</li> <li>Board of Healing Arts (BHA) regulates and certifies doctors who recommend treatment with medical marijuana.</li> <li>Board of Pharmacy (BP) regulates and registers pharmacist consultants and the reporting requirements for the prescription monitoring program.</li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>

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Advisory Committee	<ul style="list-style-type: none"> <li>• Creates the 15-member Medical Marijuana Advisory Committee (MMAC).</li> <li>• Members serve for 2-year terms.</li> <li>• Will develop policies and procedures for review and recommendations on adding or removing qualifying medical conditions from the approved list.</li> <li>• Will review the list of qualifying medical conditions every 3 years to determine continued inclusion in list.</li> <li>• Will make recommendations on those criminal offenses that would disqualify an individual from licensure.</li> <li>• Will report to the Legislature annually.</li> <li>• Sunsets on July 1, 2026.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>
Conflict of Interest	<ul style="list-style-type: none"> <li>• Prohibits any employee or agent of a regulating agency from accepting any gifts or other benefits from a licensee other than official hospitality.</li> <li>• Violations could result in loss of position and criminal misdemeanor charges.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except violations could result in loss of position and criminal felony charges.</li> </ul>
Regulatory Commencement Date	<ul style="list-style-type: none"> <li>• BHA and BP must adopt rules and regulations for physicians and pharmacist consultants by July 1, 2022.</li> <li>• KDHE and the Secretary of Revenue must adopt rules and regulations by July 1, 2023.</li> </ul>	<ul style="list-style-type: none"> <li>• Board of Healing Arts must adopt rules and regulations for certifying physicians by Sept. 1, 2023.</li> <li>• All other rules and regulations must be adopted by January 1, 2024, by the regulatory agency.</li> </ul>
Website Requirement	<ul style="list-style-type: none"> <li>• KDHE is required to have a website by July 1, 2023, to inform the public regarding patient and caregiver registration.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except website must be available by January 1, 2024.</li> </ul>
Administrative Hearings	<ul style="list-style-type: none"> <li>• All final actions of a regulating agency are subject to the Kansas Administrative Procedure Act and the Kansas Judicial Review Act.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>

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<b>Relevant Definitions</b>		
"Marijuana"	<ul style="list-style-type: none"> <li>Refers to the current definition of "marijuana" under the Uniform Controlled Substances Act (K.S.A. 65-4101 et seq.)</li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>
"Medical marijuana product"	<ul style="list-style-type: none"> <li>Means "a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a registered patient."</li> <li>The bill further defines "cannabinoid" and "plant material."</li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>
"Qualifying medical condition"	<ul style="list-style-type: none"> <li>Means any of the following:               <ul style="list-style-type: none"> <li>Acquired immune deficiency syndrome;</li> <li>Alzheimer's disease;</li> <li>Amyotrophic lateral sclerosis;</li> <li>Cancer;</li> <li>Chronic traumatic encephalopathy;</li> <li>Crohn's disease;</li> <li>Epilepsy or another seizure disorder;</li> <li>Fibromyalgia;</li> <li>Glaucoma;</li> <li>Hepatitis C;</li> <li>Inflammatory bowel disease;</li> <li>Lupus;</li> <li>Multiple sclerosis;</li> <li>Parkinson's disease;</li> <li>Positive status for HIV;</li> <li>Post-traumatic stress disorder;</li> <li>Sickle cell anemia;</li> <li>Spinal cord disease or injury;</li> <li>Tourette's syndrome;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>SAME, except:               <ul style="list-style-type: none"> <li>List does not specify lupus, but generally includes autoimmune disorders.</li> <li>List includes debilitating psychiatric disorders diagnosed by a licensed psychiatrist.</li> <li>List also includes any other chronic, debilitating, or terminal condition that, if left untreated, would be detrimental to the patient's mental or physical health.</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>• Traumatic brain injury;</li> <li>• Ulcerative colitis;</li> <li>• Any other pain that is chronic and severe or intractable; and</li> <li>• Any other disease or condition adopted by the Secretary of KDHE based on a recommendation from the MMAC.</li> </ul>	
"Tetrahydrocannabinol"	<ul style="list-style-type: none"> <li>• Means "the primary psychoactive cannabinoid in marijuana formed by decarboxylation or naturally occurring tetrahydrocannabinolic acid that generally takes place by heating.</li> <li>• The bill further defines "cannabinoid," "tetrahydrocannabinolic acid," and "tetrahydrocannabinol content."</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>

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<b>Patient and Caregiver Regulation</b>		
Patient Possession and Use	<ul style="list-style-type: none"> <li>• Treating physician will apply on behalf of a patient or caregiver and certify that patient has a qualifying medical condition.</li> <li>• Patient or caregiver must also apply with to KDHE for an identification card.</li> <li>• Medical marijuana may only be used in the following forms:               <ul style="list-style-type: none"> <li>• Oils</li> <li>• Tinctures</li> <li>• Plant material</li> <li>• Edibles</li> <li>• Patches</li> <li>• Any other form approved by the Secretary of Revenue based on a recommendation by the Director of ABC.</li> </ul> </li> <li>• Smoking, combustion, or vaporization of marijuana is prohibited.</li> <li>• Plant material shall have a THC content of not more than 35% in its final, dispensed form.</li> <li>• Extracts shall have a THC content of not more than 70% in its final, dispensed form.</li> <li>• Patient may only possess a 30-day supply at any one time.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except there is no restriction on the THC content of extracts.</li> </ul>
Patient Cultivation	<ul style="list-style-type: none"> <li>• Patient registration does not authorization the cultivation of marijuana.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>
Minor Patients (<18 years of age)	<ul style="list-style-type: none"> <li>• Minors must have parent or guardian consent to treatment with medical marijuana and must be designated as the patient's caregiver.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>

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Caregivers	<ul style="list-style-type: none"> <li>• Must be 21 or older, unless the parent of a minor patient, then caregiver must be 18 or older.</li> <li>• May purchase and possess marijuana in the same amounts as a patient.</li> <li>• May assist in the use or administration of medical marijuana by patient.</li> <li>• Patient may designate up to 2 caregivers.</li> <li>• Caregiver may not serve more than 2 patients, unless approved by KDHE.</li> <li>• Recommending physician cannot serve as caregiver for the patient.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>
Fees	<ul style="list-style-type: none"> <li>• Fee for a patient ID card is \$50, unless the individual is indigent or a veteran, then fee is \$25.</li> <li>• Fee for caregiver ID card is \$25.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>
Regulation Fund	<ul style="list-style-type: none"> <li>• Medical Marijuana Registration Fund established for collection of all fees and fines collected by KDHE. Used to reimburse KDHE for costs of administration.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>
Term of License	<ul style="list-style-type: none"> <li>• Licenses valid for 1 year.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>
Patient Registry	<ul style="list-style-type: none"> <li>• KHDE will assign a unique 24-character identification number to each registered patient and caregiver and issue an electronically scannable ID card to allow retail dispensaries to verify valid registration by scanning the ID card or entering the identification number.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except the ID card is not specifically required to be electronically scannable.</li> </ul>
Reciprocity	<ul style="list-style-type: none"> <li>• A medical marijuana identification card issued by another state or U.S. territory that is verifiable and allows the nonresident patient to possess medical marijuana will be recognized in Kansas.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except reciprocity applies to purchases and possession.</li> </ul>

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Physician Certification	<ul style="list-style-type: none"> <li>• Physician must obtain a certificate from the BHA authorizing the physician to recommend treatment with medical marijuana.</li> <li>• Must annually report to the Board on the physician's observations as to effectiveness of treatment.</li> <li>• Must annually complete 2 or more hours of continuing medical education on the treatment and use of medical marijuana.</li> <li>• Must pay an annual fee of \$175 for certification.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>
Restrictions on Treatment	<ul style="list-style-type: none"> <li>• Physician must have an ongoing relationship with patient for 6 months prior to recommendation for treatment with medical marijuana, unless patient:               <ul style="list-style-type: none"> <li>• Moved from outside the state with a recommendation;</li> <li>• Has a recommendation and changed physicians; or</li> <li>• Is a veteran.</li> </ul> </li> <li>• Physician must conduct a physical exam and review patient's medical records.</li> <li>• Physician must report recommendation to the prescription monitoring program.</li> <li>• For a patient with a previous recommendation by another physician, the patient must either maintain a relationship for 6 months or have ended the prior relationship due to the death or discontinued practice of the prior physician.</li> <li>• Physician can only recommend treatment for up to 90 days and renew such recommendation for 3 additional 90-day periods. Must conduct a physical examination at least once every 360 days.</li> <li>• Prohibited from recommending treatment for self or family members and dispensing medical marijuana.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except the ongoing relationship can be established through the initial office visit. This applies whether the patient had previously received a recommendation from a prior physician.</li> </ul>

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<b>Business Facility Regulation</b>		
License Application Requirements	<ul style="list-style-type: none"> <li>• Separate license required for each location operated by licensee.</li> <li>• Must not have any ownership interest in or share employees with a licensed laboratory unless application is for a laboratory license.</li> <li>• Licensed premises must conform with location restrictions.</li> <li>• Must have a tax clearance certificate.</li> <li>• Cultivators must demonstrate ability to grow in a secure indoor facility.</li> <li>• Must confirm any foreign financial interest in licensee.</li> <li>• Not less than 15% of licenses shall be issued to minority applicants.</li> </ul>	<ul style="list-style-type: none"> <li>• Separate license required for each location operated by licensee.</li> <li>• Must not have any ownership interest in or share employees with a licensed laboratory unless application is for a laboratory license.</li> <li>• Licensed premises must conform with location restrictions.</li> <li>• Must have a tax clearance certificate.</li> </ul>
Ownership Restrictions	<ul style="list-style-type: none"> <li>• Licensee must:               <ul style="list-style-type: none"> <li>• Be a U.S. citizen;</li> <li>• Be at least 18 years old;</li> <li>• Be a Kansas resident for past 4 years;</li> <li>• Own or lease the licensed premises;</li> <li>• Not have been convicted of a disqualifying criminal offense;</li> <li>• Not have had a medical marijuana license revoked unless revocation was due to a misdemeanor conviction more than 10 years prior;</li> <li>• Not be a law enforcement officer, supervise such officers, or be an employee of ABC;</li> <li>• Not be disqualified because their spouse is ineligible for a license; and</li> <li>• Not have an undisclosed beneficial interest in another licensee.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except Kansas residency requirement for both individual and business licensees is only 2 years.</li> </ul>

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	<ul style="list-style-type: none"> <li>• Business entities must also:               <ul style="list-style-type: none"> <li>• Submit the required business organization and ownership interest documentation;</li> <li>• Not be a publicly traded company;</li> <li>• Verify that the individual owners satisfy the eligibility requirements, except that only 75% of the owners must be a resident of Kansas for 4 years; and</li> <li>• Report and get approval for all ownership transfers.</li> </ul> </li> <li>• Compensation arrangements that are contingent on sales, revenues, or cash flow of the licensee are prohibited.</li> </ul>	
Location Restrictions	<ul style="list-style-type: none"> <li>• No facility may be located within 1,000 feet of any school, church, library, or park.</li> <li>• Facilities in existence prior to the establishment of a school, church, etc. may remain at their current location if permitted by the Director.</li> <li>• Restriction does not apply to educational research facilities.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except:</li> <li>• The church must be located on property owned by the religious organization;</li> <li>• A school is defined as only preschool through 12<sup>th</sup> grade;</li> <li>• The Director cannot revoke the license of a preexisting licensed premises; and</li> <li>• A licensee may petition for an exemption if located in an industrial zone and at least 500 feet from any school, church, library, or park.</li> </ul>
County Regulations	<ul style="list-style-type: none"> <li>• Board of County Commissioners may adopt a resolution prohibiting any licensee from operating in the county.</li> <li>• Any licensed facility operating prior the adoption of such resolution may continue operations and is not subject to the resolution.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except the Board of County Commissioners can only prohibit the operation of retail dispensaries in the county.</li> </ul>

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Advertising & Signage Restrictions	<ul style="list-style-type: none"> <li>• BHA must adopt regulations to require signage at retail dispensaries to properly warn pregnant women and individuals with psychiatric or emotional disorders about the adverse effects of marijuana.</li> <li>• Cooperative advertising between 2 or more cultivators, retail dispensaries, physicians, or any combination thereof that seeks to influence the choice of medical marijuana product is prohibited.</li> <li>• No form of advertising shall:               <ul style="list-style-type: none"> <li>• Contain any false or misleading information;</li> <li>• Falsely disparage a competitor's product;</li> <li>• Contain anything obscene or indecent;</li> <li>• Encourage or represent recreational use;</li> <li>• Relate to the safety or efficacy of marijuana unless supported by substantial evidence;</li> <li>• Portray any minor or any symbol associated with minors;</li> <li>• Offer any prize or award for purchases;</li> <li>• State or imply endorsement by any state regulatory agency.</li> </ul> </li> <li>• All ads must be submitted to KDHE for approval.</li> <li>• Retail dispensary cannot advertise specific brands or use graphics on exterior signage or display any product or paraphernalia that is visible from the exterior.</li> <li>• The price of medical marijuana cannot be advertised by cultivators, processors, or distributors.</li> <li>• Prices cannot be advertised on any highway billboard, and marijuana cannot be advertised on any highway within 10 miles of the state line if the highway crosses state lines.</li> </ul>	<ul style="list-style-type: none"> <li>• Cooperative advertising between 2 or more cultivators, retail dispensaries, physicians, or any combination thereof that seeks to influence the choice of medical marijuana product is prohibited.</li> <li>• No form of advertising shall:               <ul style="list-style-type: none"> <li>• Contain any false or misleading information;</li> <li>• Falsely disparage a competitor's product;</li> <li>• Contain anything obscene or indecent;</li> <li>• Encourage or represent recreational use;</li> <li>• Relate to the safety or efficacy of marijuana unless supported by substantial evidence;</li> <li>• Portray any minor or any symbol associated with minors;</li> <li>• Offer any prize or award for purchases;</li> <li>• State or imply endorsement by any state regulatory agency.</li> </ul> </li> <li>• Director may require specific disclosures be made and recommend changes.</li> <li>• Retail dispensary cannot advertise specific brands, use graphics on exterior signage, or display any product or paraphernalia that is visible from the exterior.</li> <li>• Medical marijuana cannot be advertised for sale by cultivators, processors, or distributors.</li> </ul>

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Cultivation/growing Facilities	<ul style="list-style-type: none"> <li>• Authorized to grow marijuana in a building designated for cultivation by the licensee.</li> <li>• May sell and deliver medical marijuana to licensed laboratories, processors, distributors, and retail dispensaries.</li> <li>• Except as otherwise authorized, all marijuana must be tested for contamination prior to being delivered or sold.</li> <li>• Licensee may apply for an expansion of cultivation area by submitting a plan for expansion with a timeline and having a history of compliance with the Act.</li> <li>• Licensee cannot grow medical marijuana for personal or family use, or on public land.</li> </ul>	<ul style="list-style-type: none"> <li>• Authorized to grow marijuana in a building designated for cultivation by the licensee.</li> <li>• May sell and deliver medical marijuana to licensed cultivators, laboratories, processors, distributors, and retail dispensaries.</li> <li>• Except as otherwise authorized, all marijuana must be tested for contamination prior to being delivered or sold.</li> <li>• Licensee must maintain a minimum square footage of cultivation area as established by rules and regulations, but not more than 50,000 square feet total.</li> <li>• Licensee cannot grow medical marijuana for personal or family use, or on public land.</li> </ul>
State Contractor Laboratory	<ul style="list-style-type: none"> <li>• By Jan. 1, 2023, Director is required to contract with a private laboratory for compliance and quality assurance testing required by state agencies.</li> <li>• Contractor cannot conduct commercial medical marijuana testing and cannot have any conflicts of interest with a licensee.</li> <li>• Contractor will consult with Director to develop testing and research practices and laboratory testing regulations.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except must enter into a contract by Jan. 1, 2024.</li> </ul>
Laboratory Testing Facilities	<ul style="list-style-type: none"> <li>• Authorized to conduct laboratory testing on medical marijuana provided by a licensed cultivator, processor, or retail dispensary.</li> <li>• Must establish policies to prevent undue commercial or other influence and the appearance of such.</li> <li>• Must establish testing standards that comply with standards set by regulations.</li> <li>• Must comply with all test batch requirements.</li> <li>• By Jan. 1, 2022, must be accredited by a national laboratory accrediting body.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except must be accredited by Jan. 1, 2024.</li> </ul>

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Processor Facilities	<ul style="list-style-type: none"> <li>• Authorized to obtain medical marijuana from licensed cultivators and processors and process it into one of the authorized forms for consumption.</li> <li>• May sell and deliver medical marijuana to licensed processors, distributors, and retail dispensaries.</li> <li>• Must comply with all packaging and labeling requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except must comply with packaging and labeling requirements established by rules and regulations.</li> </ul>
Distributor Facilities	<ul style="list-style-type: none"> <li>• Authorized to obtain medical marijuana at wholesale from licensed cultivators and processors and store it in one or more of the authorized forms for consumption.</li> <li>• May sell, package for final sale, and deliver medical marijuana to licensed retail dispensaries.</li> <li>• Must comply with all packaging and labeling requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except must comply with packaging and labeling requirements established by rules and regulations.</li> </ul>
Retail Dispensaries	<ul style="list-style-type: none"> <li>• Authorized to obtain medical marijuana from licensed cultivators, processors, and distributors and dispense it to an individual holding a valid patient or caregiver ID card.</li> <li>• Must report all sales to the prescription monitoring program database.</li> <li>• Must label all packages with the required information.</li> <li>• All packaging must be child-resistant and tamper-proof.</li> <li>• No medical marijuana may be dispensed through a vending machine or via electronic commerce.</li> <li>• All employees must have an employee license issued by ABC.</li> <li>• Must contract with a pharmacist consultant who is a licensed and registered pharmacist in this state.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except must comply with packaging and labeling requirements established by rules and regulations, including certain required information.</li> </ul>
Research/education Facilities	<ul style="list-style-type: none"> <li>• Explicitly exempts research institutions from regulation by ABC.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>

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Fees	<ul style="list-style-type: none"> <li>• Cultivator license:               <ul style="list-style-type: none"> <li>• Initial/renewal application fee: \$5,000</li> <li>• License fee: \$20 per plant with a minimum of 1,000 plants</li> <li>• Renewal fees are the same as initial fees</li> </ul> </li> <li>• Laboratory testing facility license:               <ul style="list-style-type: none"> <li>• Initial/renewal application fee: \$2,000</li> <li>• License fee: \$18,000</li> <li>• Renewal fee: \$20,000</li> </ul> </li> <li>• Processor facility license:               <ul style="list-style-type: none"> <li>• Initial/renewal application fee: \$5,000</li> <li>• License fee: \$40,000</li> <li>• Renewal fee: \$40,000</li> </ul> </li> <li>• Distributor facility license:               <ul style="list-style-type: none"> <li>• Initial/renewal application fee: \$5,000</li> <li>• License fee: \$40,000</li> <li>• Renewal fee: \$40,000</li> </ul> </li> <li>• Retail dispensary license:               <ul style="list-style-type: none"> <li>• Initial/renewal application fee: \$5,000</li> <li>• License fee: \$40,000</li> <li>• Renewal fee: \$40,000</li> </ul> </li> <li>• All fees are annual and nonrefundable.</li> </ul>	<ul style="list-style-type: none"> <li>• Cultivator license:               <ul style="list-style-type: none"> <li>• Initial/renewal application fee: \$20,000</li> <li>• License fee: \$4,000 per 100 square feet of cultivation area.</li> </ul> </li> <li>• Laboratory testing facility license:               <ul style="list-style-type: none"> <li>• Initial/renewal application fee: \$4,000</li> <li>• License fee: \$36,000</li> </ul> </li> <li>• Processor facility license:               <ul style="list-style-type: none"> <li>• Initial/renewal application fee: \$20,000</li> <li>• License fee: \$180,000</li> </ul> </li> <li>• Distributor facility license:               <ul style="list-style-type: none"> <li>• Initial/renewal application fee: \$20,000</li> <li>• License fee: \$80,000</li> </ul> </li> <li>• Retail dispensary license:               <ul style="list-style-type: none"> <li>• Initial/renewal application fee: \$20,000</li> <li>• License fee: \$80,000</li> </ul> </li> <li>• All fees are biennial.</li> <li>• ½ of license fee amount may be refunded if licensee is prevented from operating for 2<sup>nd</sup> year of license term.</li> </ul>
Regulation Fund	<ul style="list-style-type: none"> <li>• Medical Marijuana Business Entity Regulation Fund established for collection of all fees and fines collected by ABC. Used to reimburse ABC for costs of regulation and enforcement.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, except the fund name is Medical Marijuana Business Regulation Fund.</li> </ul>
Term of License	<ul style="list-style-type: none"> <li>• Cultivator, laboratory, distributor, and processor facility licenses valid for 1 year.</li> <li>• Retail dispensary license valid for 2 years.</li> </ul>	<ul style="list-style-type: none"> <li>• All licenses are valid for 2 years.</li> </ul>

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Seed-to-Sale Tracking System	<ul style="list-style-type: none"> <li>Director is required to establish and maintain a statewide tracking system to track and trace marijuana inventory from cultivation through dispensing to the patient or caregiver. May contract with third-party to fulfill requirement.</li> </ul>	<ul style="list-style-type: none"> <li>SAME, except Director will give preference to a system that includes tracking plants beginning with the plant's in vitro genetic origination data.</li> </ul>
Payment Processing System	<ul style="list-style-type: none"> <li>Director may establish a payment processing system in coordination with the State Treasurer that would require all transactions involving medical marijuana be conducted through accounts created and administered by the State Treasurer.</li> </ul>	<ul style="list-style-type: none"> <li>NOT INCLUDED</li> </ul>
Employee Licenses	<ul style="list-style-type: none"> <li>Employees of retail dispensaries must hold an associated, key, or support employee license.</li> <li>Employee licensees must submit to criminal background check and meet license eligibility requirements.</li> <li>Fees for employee license:               <ul style="list-style-type: none"> <li>\$500 for associated employee.</li> <li>\$250 for key employee.</li> <li>\$100 for support employee.</li> </ul> </li> <li>License valid for 2 years.</li> </ul>	<ul style="list-style-type: none"> <li>All employees of a business licensee must hold a valid employee license.</li> <li>Employee license applicants must submit to criminal background check and meet license eligibility requirements.</li> <li>Fee for an employee license is \$100.</li> <li>License is valid for 2 years.</li> </ul>
Pharmacist Consultant Registration	<ul style="list-style-type: none"> <li>BP must adopt rules and regulations for registration of pharmacist consultants and reporting of medical marijuana sales to the prescription monitoring program database by July 1, 2022.</li> <li>Pharmacist consultants must be registered with BP.</li> <li>Cannot receive compensation from a retail dispensary that exceeds 1% of the gross receipts of the retail dispensary.</li> <li>Pharmacist consultants must audit written physician recommendations, training employees, and provide oversight of dissemination of educational materials.</li> </ul>	<ul style="list-style-type: none"> <li>SAME, except rules and regulations must be adopted by Jan. 1, 2024.</li> </ul>

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Issue	House Substitute for SB 158 Kansas Medical Marijuana Regulation Act	SB 560 Medical Marijuana Regulation Act
Premises Security Requirements	<ul style="list-style-type: none"> <li>• NOT INCLUDED</li> </ul>	<ul style="list-style-type: none"> <li>• Requires all licensed premises to be equipped with security equipment and measures to ensure no unauthorized access to restricted areas and no theft of product.</li> <li>• Security measures include:               <ul style="list-style-type: none"> <li>○ Exterior lighting;</li> <li>○ Video monitoring;</li> <li>○ Controlled access to restricted areas;</li> <li>○ Alarm systems; and</li> <li>○ A security manager.</li> </ul> </li> </ul>
Agreements With Tribal Governments	<ul style="list-style-type: none"> <li>• NOT INCLUDED</li> </ul>	<ul style="list-style-type: none"> <li>• Secretary of Revenue authorized to enter into agreements with the tribal governments of the 4 Native American Tribes to allow the exchange of medical marijuana with entities located on the reservations.</li> <li>• Tribal regulations must meet or exceed requirements of the Act and rules and regulations.</li> </ul>
Pilot Program	<ul style="list-style-type: none"> <li>• Director is required to establish a pilot program within 45 days after the effective date of the Act.</li> <li>• Director will select one company for the pilot program.</li> <li>• Selected company will be issued one of each type of business license and will enter into a private-public partnership with a state university to develop and recommend best practices to the Director.</li> </ul>	<ul style="list-style-type: none"> <li>• NOT INCLUDED</li> </ul>

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<b>Taxation and Distribution of Revenue</b>		
Tax Rate	<ul style="list-style-type: none"> <li>• State sales tax rate is 5.75%</li> <li>• Additional local sales taxes may apply.</li> <li>• No excise tax imposed on sales of medical marijuana.</li> <li>• No pharmaceutical exemption because product is not dispensed based on a prescription, but on a recommendation from the physician.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>
Tax Revenue Distribution	<ul style="list-style-type: none"> <li>• Tax revenue collected and appropriated in same manner as state sales tax.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>
Exemption from Tax on Controlled Substances	<ul style="list-style-type: none"> <li>• Exempts medical marijuana from taxes imposed on controlled substances sold illegally.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>

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<b>Non-discrimination Provisions</b>		
Real Estate Transactions	<ul style="list-style-type: none"> <li>No provisions related to real estate transactions.</li> </ul>	<ul style="list-style-type: none"> <li>No person may refuse to sell or lease real property to a registered patient or otherwise discriminate against such person in a real estate transaction unless such action is required by federal law.</li> </ul>
Child Custody and Visitation	<ul style="list-style-type: none"> <li>No person shall be denied custody or visitation time, and no person shall be presumed to neglect or endanger a child based on such person being a registered patient.</li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>
Physician Licensure	<ul style="list-style-type: none"> <li>No physician, physician's assistant, advanced practice registered nurse, or certified nurse-midwife shall be subject to disciplinary action solely for engaging in professional activities related to medical marijuana.</li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>
Organ Transplants	<ul style="list-style-type: none"> <li>No person shall be denied an organ transplant because such person is a registered patient.</li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>
State/local License Eligibility	<ul style="list-style-type: none"> <li>No body that determines qualifications for licensure, certification, or registration shall:               <ul style="list-style-type: none"> <li>Require a person who is a registered patient to disclose such information; or</li> <li>Disqualify a person based solely on the person being a registered patient.</li> </ul> </li> <li>Provision does not apply to:               <ul style="list-style-type: none"> <li>Kansas Commission on Peace Officers' Standards and Training;</li> <li>Kansas Highway Patrol;</li> <li>Board of Healing Arts;</li> <li>Board of Pharmacy;</li> <li>KDHE; and</li> <li>ABC.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>SAME, except the provision only prohibits disqualification and does not apply to:               <ul style="list-style-type: none"> <li>Kansas Commission on Peace Officers' Standards and Training;</li> <li>Kansas Highway Patrol;</li> <li>Office of Attorney General;</li> <li>KDHE; and</li> <li>ABC.</li> </ul> </li> </ul>

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Employment Discrimination	<ul style="list-style-type: none"> <li>• Employer may restrict possession and use of medical marijuana on business property and may restrict the consumption of medical marijuana by employees while engaged in the performance of work duties.</li> <li>• May impose a workplace drug policy that includes testing and discipline for violations, including termination.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME, also</li> <li>• Employer cannot refuse to hire or take any adverse action against an employee solely because such employee is a registered patient or caregiver.</li> </ul>
Unemployment Benefits	<ul style="list-style-type: none"> <li>• Person shall not be disqualified from benefits if terminated for misconduct when such misconduct is based on possession of a patient ID card, or possession of medical marijuana and the employee is a registered patient.</li> <li>• Person shall not be disqualified from benefits for refusing to participate in a substance abuse program if the positive controlled substance test is due to the person's use of medical marijuana in accordance with the Act and the person is a registered patient.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>
Workers' Compensation	<ul style="list-style-type: none"> <li>• Compensation cannot be denied if employee is a registered patient, use is in accordance with the Act, and no prior incidence of impairment on the job in past 2 years.</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>

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<b>Criminal Code Provisions</b>		
Unlawful Transportation of Medical Marijuana	<ul style="list-style-type: none"> <li>Creates a new crime that makes it a Class C misdemeanor to transport medical marijuana unless:               <ul style="list-style-type: none"> <li>The product is packaged and sealed pursuant to regulations; or</li> <li>The product is locked in a compartment and inaccessible to individuals in the vehicle; or</li> <li>The product is in the possession of a passenger who cannot be directly accessed by the driver.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>
Unlawful Storage of Medical Marijuana	<ul style="list-style-type: none"> <li>Creates a new crime that makes it a Class A misdemeanor to leave medical marijuana so that it is readily accessible to minors.</li> <li>"Readily accessible" is defined to mean not stored in a locked container that restricts access to persons under 18.</li> <li>Exception made for patients who are under 18.</li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>
Financial Institutions	<ul style="list-style-type: none"> <li>Financial institutions are exempt from criminal liability for providing services to licensed business entities.</li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>
Decriminalization of Medical Marijuana	<ul style="list-style-type: none"> <li>No criminal liability for possession and transportation of marijuana in accordance with the Act.</li> <li>If person is not a registered patient or caregiver but does have a recommendation from a treating physician and possesses not more than 1.5 ounces, then only a nonperson misdemeanor punishable by a fine of up to \$400.</li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>
Enforcement of Federal Firearms Law	<ul style="list-style-type: none"> <li>No law enforcement officer may enforce the federal prohibition on firearm possession by a person using a controlled substance if the person is a registered patient using medical marijuana in accordance with the Act.</li> </ul>	<ul style="list-style-type: none"> <li>SAME</li> </ul>

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<b>Other Legal Provisions</b>		
Division of ABC Renamed	<ul style="list-style-type: none"> <li>• Renames the Division of Alcoholic Beverage Control to the Division of Alcohol and Cannabis Control</li> </ul>	<ul style="list-style-type: none"> <li>• SAME</li> </ul>
Contingent Amendments to the Act	<ul style="list-style-type: none"> <li>• If federal law is amended to move marijuana from Schedule I of the federal Controlled Substances Act, then a certified physician must prescribe marijuana as a drug treatment for the registered patient.</li> <li>• All references in the Act to a physician's "written recommendation" will be amended to read "prescription."</li> <li>• The controlled substances schedules under Kansas law will be amended to move marijuana from Schedule I to Schedule II.</li> </ul>	<ul style="list-style-type: none"> <li>• NOT INCLUDED</li> </ul>