

Alcoholic Beverage Control
109 SW 9th Street, 5th Floor
PO Box 3506
Topeka KS 66601-3506
Mark A. Burghart, Secretary



Phone: 785-296-7015
Fax: 785-296-7185
Kdor_abc.email@ks.gov
www.ksrevenue.org
Laura Kelly, Governor

MEMORANDUM

TO: Senator Mike Thompson, Chairman, Senate Federal and State Affairs Committee

FROM: Debbi Beavers, Director, Alcoholic Beverage Control Division. Email: debbi.beavers@ks.gov; Desk Phone 785-368-6290; Cell 785-260-1008.

DATE: March 14, 2023

SUBJECT: Neutral Testimony on SB 135

Mr. Chairman:

Thank you for the opportunity to testify. The bill places the licensing and regulation of medical marijuana cultivators, laboratories, processors, distributors, dispensaries, and employee licenses within the Alcoholic Beverage Control Division of the Department of Revenue and changes the name to Alcoholic Beverage and Cannabis Control.

While the ABC is neutral on this bill, we do have some concerns with the current language as follows:

- New Section 2(k) - "edibles" are defined as only having cannabis "extract". There is no definition of "extract".
- New Section 2(r) - "plant" definition does not define when a plant becomes a plant, so it is uncertain when a "plant" could even be considered as such for regulatory purposes. Also, the definition includes "cultivating container" which is not defined.
- New Section 21(a)(C)(12) - requires Kansas residency for two years preceding the application date which may be challenged as a violation of the dormant commerce clause, similar to residency requirements for liquor licenses after a recent U.S. Supreme Court decision.

- New Section 21(c) - does not appear that the spouse of the applicant must meet the same eligibility requirements as the applicant. We would recommend this be the case, as it is with liquor licenses, because it reduces potential instances of hidden ownership.
- New Section 21(f) - requires notification regarding ownership changes within 30 days **after** the change has taken place. ABC recommends this notification be required **before** such a change to ensure the new owners are qualified.
- New Section 21(f) - authorizes transferring a license. Liquor licenses are personal property and not transferrable. Should this provision move forward, transfers should be submitted to the ABC at least 60 days prior to the transfer to ensure the new owners are qualified to hold a license.
- New Section 30(e)(3) - THC limit for edibles is 3.5 grams. The other forms are a percentage. This may need to be changed for consistency.
- New Section 32 – ABC requests that all license fees be set in statute for transparency instead of in regulations.
- New Section 37 - requires rules and regulations be completed by 1/1/25. If the act is not effective until 7/1/24, it only gives the ABC 6 months to promulgate regulations. The ABC believes this is an insufficient amount of time given the volume of regulations required.
- New Section 45 - only requires fingerprinting for applicants owning 20% or more. ABC recommends fingerprinting for anyone who owns more than 5%, as is required for liquor licenses. If left to 20%, it could result in five convicted felons owning a license.
- New Section 77 - changes the current statute to allow for more AAGs. It is the preference of the Division to have ABC attorneys be employees of KDOR.
- New Section 85 – See comments on New Section 37; if this law does not go into effect until 7/1/24, that does not give the ABC enough time to develop and promulgate regulations by 1/1/25.

Other Comments:

- License rights still have "or" instead of "and". If this is not changed, the law would not allow them to perform multiple activities where authorized. For example: licensees could only purchase **or** sell, as opposed to purchasing **and** selling.
- It is unclear when the ABC must be ready to accept applications.
- Nothing requires a cultivator to comply with packaging requirements.
- ABC would recommend black and white packaging with no graphics except for the marijuana symbol. This would standardize packaging and reduce the influence and appeal to children.

Thank you, Mr. Chairman.