



**Senate Committee on Federal & State Affairs
Testimony in Opposition to Senate Bill 135
March 16, 2023**

Chairman Thompson and Members of the Committee:

My name is Katie Whisman and I serve as the Executive Director of *Stand Up For Kansas*.

Stand Up For Kansas is a nonprofit organization whose mission is to advocate for policies that seek to maintain and improve the standard indicators of quality of life for Kansans. These include wealth, employment, the environment, physical and mental health, education, recreation and leisure time, social belonging, religious beliefs, safety, security and freedom.

Perhaps the biggest threat we currently face to quality of life in Kansas is the possible legalization of marijuana for “medical” purposes.

ILLUSIONARY GUARDRAILS

SB 135 is full of illusionary “guardrails” and there are a plethora of issues that threaten the physical and mental health, safety, security, and freedom of current and future generations of Kansans. These concerns will be addressed by other conferees which are experts in their respective public health, public safety, and social welfare fields. For that reason, I will primarily focus my testimony on why I perceive SB 135 to be written not with the interest of *patients* in mind, but with the interests of the *industry* and multi-state operators in mind.

Section 21 sets forth requirements for individuals and non-individuals to apply for licensure under the act. The subsection dealing with the licensure of persons requires, in part, that applicants be US Citizens, 18 years or older, and that they have been a Kansas resident for two or more years prior to application. Oddly enough, the residency requirement for individuals expires on 12/31/2025 - which is less than one calendar year

after the rules and regulations to establish and implement the act go into place. The subsection dealing with the requirements of individuals with ownership interests in business entities *does not* include the requirements regarding age, land ownership or lease, or the Kansas residency requirement. Why would SB 135 initially hold Kansas residents to a higher standard? Because it is not about Kansans - it is built to cater to the interests of multi-state operators and the industry.

Of grave concern is that the provisions in Section 8 which require KDHE to share information with law enforcement for purposes of confirming validity of a patient registration expire on July 1, 2029 unless reenacted by the Legislature. While portions of this subsection seem to be standard reauthorizations of protections afforded by the Kansas Open Records Act, the fact they are paired with information required by law enforcement to verify the validity of a person's possession and use of marijuana under the act is concerning. The effect of this is a law that is totally unenforceable. **This, perhaps, points to the industry's profit motivations and long-term goal of recreational legalization in Kansas.**

In the testimony I submitted for the Informational Briefing held by this Committee on March 1-2, 2023, regarding the multi-state impact of marijuana legalization, I shared an observation that the distinction between "medical" and recreational marijuana has been deliberately blurred by an industry with a heavy hand in both markets and pointed to the legalization debate being framed in one of two ways: altruistic compassion versus capitalistic greed. SB 135 easily fits within the capitalistic greed column.

GRIM REALITIES

SB 135 is full of both intended and unintended consequences. By *intended consequences*, I mean words, phrases, definitions and confliction sections that are intended to produce results that are largely only discerned by the authors. It seems as though some of the language in SB 135 is so confusing that no one can understand how to follow it or enforce it.

Because these pieces of legislation are exponentially more difficult to implement and operate than they are to understand, states have pathetically failed to regulate the "legal" industry. Consequently, bad actors - including the cartels - are allowed to hide in plain sight. States don't have the resources to deal with the "legal" market and in every state, the illicit market overwhelms the "legal" pot industry because it operates outside the world of regulations and taxes.

Because the “legal” pot industry is unable to compete with the illicit market’s lower prices, many states are loosening regulations, cutting taxes, and even providing economic relief to an industry that sells concentrates which are, gram for gram, more expensive than gold. As states began to compete with cartels for marijuana profits, they simply turned to more lucrative and deadly products and have grown in power. Marijuana legalization is directly tied to the opioid crisis.

Theoretically, for a legalized marijuana program to be effective at preventing diversion and rises in illicit activity, funding must be sufficient to create a robust regulatory structure *and* support robust enforcement of both administrative and criminal violations. States that attempt to impose fees and taxes high enough to regulate and enforce these programs often realize that those costs simply create a powerful illicit market.

This is not a scale that can be balanced and there are *no guardrails* that solve these problems.

Chaos ensues and it is only a matter of time before the costly and woefully ineffective regulatory structure will be repealed and recreational - or “adult use” - marijuana will become legal.

PROFIT OVER PATIENTS

While Section 19 requires the Board of Healing Arts to promulgate rules and regulations, including the requirement that physicians meet the applicable standard of care, Section 18 includes a provision that seems to nullify *any* standard of care. It specifies, “A physician holding a certificate to recommend treatment with medical cannabis shall be **immune from civil liability, shall not be subject to professional disciplinary action by the board of healing arts and shall not be subject to criminal prosecution**” for advising on the risks and benefits of cannabis use, recommending cannabis use, or monitoring a patient’s treatment with cannabis.

WHY? Because SB 135 is not about patients - it is about *profit*. Profit requires patients to have access to a dangerous and addictive product. Initial and ongoing access to that product requires a physician. Physicians deviating from the standard of care by recommending cannabis expose themselves to liability. The only thing standing between patients and profit are physicians and the blanket immunity provisions are the beating heart of the trojan horse.

FISCAL IMPLICATIONS UNKNOWN

The Fiscal Note for SB 135 indicates that several agencies were *unable* to estimate the total fiscal effect for the enactment of SB 135. From the costs available, additional expenditures related to passage of the bill are estimated to be at least \$12.2 million, including \$10.9 million from the State General Fund for FY 2024.

These costs *do not include* fiscal effects on cities or counties.

These costs *do not include* near-certain exacerbation of the statewide crisis for inpatient bed capacity and workforce shortages affecting the ability of Kansans to access mental health services and healthcare.

These costs *do not include* offsetting the costs related to increases in substance use disorders and caring for Kansans with addiction.

While the total fiscal impact of SB 135 *is unknown*, we *do know* that we cannot assign a dollar amount to the value of our children, our families, and our communities. And the proponents of SB 135 are asking you to do just that.

CLOSING

As I stated two weeks ago, marijuana is not medicine - it is a *marketing ploy* designed to institutionalize drug dealers. We oppose the legalization of any “medicine” that subverts traditionally held processes which ensure drug efficacy and patient safety. We oppose the creation of another *addiction-for-profit* industry in Kansas and we unequivocally oppose SB 135.

The more we can work together to prevent substance use, abuse and addiction, ensure appropriate access to mental health resources, the better able we are to manage our finite resources, protect the vulnerable, and serve our communities.

In closing, it seems appropriate to quote Edmund Burke: “*The only thing necessary for the triumph of evil is for good men to do nothing.*”

Together, let’s *Stand Up For Kansas* and help prevent unprecedented levels of drug addiction and irreversible harms from being inflicted upon Kansas citizens.

###