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MEMORANDUM

TO: Senator Michael Fagg, Chairman, 2024 Special Committee on Medical Marijuana

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

DATE: October 16, 2024

SUBJECT: Regulating Medical Marijuana Recommendations

Mr. Chairman and Members of the Committee:

There have been several medical marijuana bills before the legislature in recent years. In many of the bills, the ABC has been named as the primary regulatory authority. Because of this, the ABC has become a member of the cannabis regulators association (CANN-RA) to proactively learn from other states that have existing medical and/or recreational marijuana.

You may also be aware that the State of Nebraska gained enough signatures to place medical marijuana and recreational marijuana on the November ballot. If that passes, Kansas will be completely surrounded by states who have authorized medical and/or recreational marijuana. This leaves Kansas as an island without any type of marijuana that is legal. We know that marijuana is here in Kansas. Are Kansas residents obtaining marijuana on the black market or from another state where they can legally purchase it? As of October 9, 2024, the State of Missouri records 1,015 active medical marijuana cards for Kansas residents. That is down 819 active cards from April 24, 2024. The decrease is likely due to the legalization of recreational marijuana.

In preparation for testimony, I have reviewed several of the previous bills and ABC testimony and would like to point out some of the things the ABC believes are important for consideration of a medical marijuana program.

- Regulation model.
 - Some states have set up an entire new agency while other states use their alcohol beverage control to regulate.
 - Some previous bills have parsed out pieces to various State agencies. The ABC has an existing and effective regulatory framework already in place so it makes sense that ABC would regulate medical marijuana.
 - ABC would offer caution about having too many State agencies involved in regulating medical marijuana. Too many agencies and systems will drive up implementation costs for staffing and system interfaces.
- Effective and implementation dates need to be attainable.
- If the ABC will be regulating, we will need one or two additional attorneys.
 - *K.S.A. 41-201(c) The attorney general shall appoint, with the approval of the secretary of revenue, an assistant attorney general who shall be the attorney for the director of alcoholic beverage control and the division of alcoholic beverage control, and who shall receive an annual salary fixed by the attorney general with the approval of the director of alcoholic beverage control and the state finance council.*
 - It is the ABC's preference to utilize KDOR attorneys instead of having more AAGs because of the restrictions placed on embedded AAGs by the Attorney General's office.
- Medical conditions.
 - Should be set in statute.
 - Require the doctor's recommendation to specify the condition.
- Definitions.
 - In previous bills, the ABC has asked for various definitions to be added to ensure clarity when reading the law. These definitions should be included in any new bill.
- Ownership.
 - The ABC does have concerns regarding requiring a Kansas residency in light of the U.S. Supreme Court decision *Tennessee Wine & Spirits Retailers Assn. v. Russell F. Thomas, Executive Director of the Tennessee Alcoholic Beverage Control Commission.*
 - Should a minimum age to own a medical marijuana license be established?
 - ABC recommends required fingerprinting of owners; officers and their spouses be required for anyone owning 5% or more of the entity applying for a license.
 - ABC recommends that any changes in ownership be submitted at least 30 days prior to the ownership change to fully vet the new owner. ABC also requests a fee for processing the ownership change.

- License recommendations.
 - A non-transferrable license.
 - Fees set in statute for transparency.
 - Providing for a distributor's license.
 - Is a transporter license needed or do cultivators and processors need this as a right of license or both?
 - Will there be a cap on licenses? If so, will a lottery system be used?
- Licensed premises.
 - Require 90 days of records onsite and maintenance of all records for three years.
 - Video surveillance with the ability for ABC to view remotely.
 - Strict security measures for access.
- Labels and packaging. ABC recommends:
 - Requiring label and packaging registration and approval be obtained prior to selling a product.
 - Charging a fee for label and packaging approval.
 - Strict label requirements such as black with white letters or white with black letters, no graphics except the universal marijuana symbol.
- Medical product types.
 - If packaging recommendation above is not followed, then restrictions should be in place to make the package not appealing to children.
 - Packaging should be child resistant.
 - Should the legislature limit the types of medical marijuana edibles available?
 - Actual product itself should not be appealing to children. For example, should gummies look like bears or be square?
- Laboratories.
 - Licensed labs will test products prior to retail sale.
 - Request a State Lab or contract for quality assurance checks on licensed labs and products at retail.
- Medical marijuana cards.
 - Who will issue the medical cards?
 - How will law enforcement verify a medical marijuana card?
 - Will there be reciprocity with other states?
- Penalties.
 - Authorized in statute.
 - Adding violation for failing to comply with a lawful order of the director.
- Taxes.
 - Will cultivators and producers be taxed in addition to a tax at purchase?
 - Recommend specifying tax distribution.
- Funding.
 - The legislature would need to initially fund the program.
 - If the legislature anticipates the program to be subsequently fee funded, fees must reflect the ability to maintain the program.

- To issue licenses and regulate, depending on a final bill, ABC roughly estimates it would need 30 full time employees (12 enforcement agents, licensing and background staff) which is roughly \$7.5 million the first fiscal year and includes \$3 million for a seed to sale system and enforcement agent startup costs (vehicles, body armor, etc.). Rough estimate of \$3.8M subsequently.

Some previous bills have provided for a pilot program. As a regulator the ABC recommends implementing a well-defined bill and giving all applicants the opportunity at the same time instead of using a pilot program which would allow a head start for pilot program participants.

Previous bills have also changed Alcoholic Beverage Control (ABC) to Alcohol and Cannabis Control (ACC). If ABC will be the primary regulator, we would request consideration of renaming to Alcoholic Beverage and Cannabis Control (ABC or ABCC).

From the ABC's perspective starting with recreational marijuana would be easier to implement. There would also be a significant cost savings to the State because of the reduced number of new or modified systems, system interfaces and it would eliminate the need for some of the new positions in other agencies that the medical marijuana program will require.

Thank you, Mr. Chairman.