

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: Sen. Rob Olson, Chairman, 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 5, 2022

SUBJECT: In Person Testimony on House Sub for SB 158 and SB 560

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to share ABC's concerns regarding House Sub for SB 158 and SB 560.

- Effective Dates - ABC would respectfully request that the effective date of any bill moving forward would ensure that the ABC has adequate time to promulgate regulations necessary to implement the bill and to obtain a seed to sale software system.
- Attorney - K.S.A. 41-201(c) states "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."
 - Under the bill, "ABC" would become "ACC" but remains the same in terms of being a singular agency, yet we would require at *least* one additional attorney to handle cannabis issues. However, under the singular language of K.S.A. 41-201(c), we are uncertain if we would be able to make such a hire.
- Definitions – ABC requests adding definitions of:
 - Cannabinoid
 - Cultivate
 - Dispense
 - Edibles – i.e. – for a medical program, does the legislature wish to prohibit certain types of edibles such as beverages and hot sauces?
 - Employee
 - Medical marijuana waste
 - Plant and Plant materials (found in SB 158)
 - Transport
- License Fees – ABC requests the legislature establish fees in statute for transparency.
 - If cultivation fees are based upon square foot, it should be clarified if that is grow space or floor space, since some cultivators in other states have used vertical plans that provide for

many levels of grow space stacked on top of each other, which allows them to get far more product in the same amount of “square footage.”

- If fees are based upon the number of plants, it is imperative that “plant” is defined so there is no grey area about when a plant is counted for license fees.
- License effective dates – ABC requests clarification that the license is effective for the dates specified on the license, not the issue date. (SB 560, New Section 20(d)).
- License Caps – if licenses are capped, the ABC will need to adjust the fiscal note for additional legal staff. License caps in other states have led to an explosion of lawsuits, which would be incredibly burdensome for an understaffed legal department.
- Ownership Changes and License Transfers – ABC requests:
 - Similar language Found in K.S.A. 41-326 that clarifies a license is not transferrable.
 - Establishing a fee to process ownership changes as they will be labor intensive.
- Packaging Requirement Clarification – under the bills, cultivators may sell directly to a retail dispensary. A dispensary may purchase from a cultivator but nothing in the bills require compliance with the packaging requirements.
- Deliver or Sell – ABC requests clarification. Deliver or sell implies you can do one or the other. ABC believes the intent is to do both and that “or” should be changed to “and”.
- Cultivator Expansion – in SB 560, expansion must be done at the time of renewal. It is difficult to renew a license that is changed, since a “renewal” of a license, by definition, is simply extending the effectiveness of that exact license, not an expanded or changed version. ABC believes this should be a separate process and requests a fee for processing the expansion plan.
- Delivering products – nothing in the bills address who owns the products being delivered.
 - Does that leave the door open for a licensee to deliver for other licensees?
 - Should there be a delivery or transporter license for third party deliveries?
- Pilot Program – H Sub for SB 158 includes a public/private pilot program to be established within 45 days of the effective date of the bill. ABC does not believe that is enough time to set up such program. Would such program create an unfair advantage?
- Processors –SB 560 specifies in New Section 26 that a processor may “obtain” medical marijuana from one or more licensed processors. It does not say they must purchase it, nor does it say they may transfer the product. If a licensee has a cultivator license and a processor license, ABC requests clarification regarding transferring from one license to the other.
- Record Retention – ABC requests a three-year record retention schedule for all records except for 90 day retention for video records.
- Penalties – ABC requests adding language to authorize penalties to be imposed for violating a lawful order of the director. Similar language is found in K.S.A. 41-321a and 41-2611.
- Funding – ABC would need to be fully funded until the program can support itself. H Sub for SB 158 authorizes the board of pharmacy to use the business entity regulation fund. This would make it difficult for the ABC to budget if another agency can use the funds without restriction.

Nothing in the bills address how plants/seeds come into the State of Kansas.

The ABC respectfully asks for your consideration of our concerns.

Thank you, Mr. Chairman.