

STATE OF KANSAS

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SENATE CHAMBER

MR. PRESIDENT:

I move to amend **HB 2058**, as amended by Senate Committee, on page 1, following line 19, by inserting:

"Section 1. K.S.A. 2020 Supp. 21-5706 is hereby amended to read as follows: 21-5706.

(a) It shall be unlawful for any person to possess any opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled substance analog thereof.

(b) It shall be unlawful for any person to possess any of the following controlled substances or controlled substance analogs thereof:

(1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-4109(b) or (c) or 65-4111(b), and amendments thereto;

(2) any stimulant designated in K.S.A. 65-4105(f), 65-4107(d)(2), (d)(4), (d)(5) or (f)(2) or 65-4109(e), and amendments thereto;

(3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-4107(g) or 65-4109(g), and amendments thereto;

(4) any substance designated in K.S.A. 65-4105(g) and 65-4111(c), (d), (e), (f) or (g), and amendments thereto;

(5) any anabolic steroids as defined in K.S.A. 65-4109(f), and amendments thereto;

(6) any substance designated in K.S.A. 65-4113, and amendments thereto; or

(7) any substance designated in K.S.A. 65-4105(h), and amendments thereto.

(c) (1) Violation of subsection (a) is a drug severity level 5 felony.

(2) Except as provided in subsection (c)(3):

(A) Violation of subsection (b) is a class A nonperson misdemeanor, except as provided in subparagraph (B); and

(B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug severity level 5 felony if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense if the substance involved was 3, 4-methylenedioxymethamphetamine (MDMA), marijuana as designated in K.S.A. 65-4105(d), and amendments thereto, or any substance designated in K.S.A. 65-4105(h), and amendments thereto, or an analog thereof.

(3) If the substance involved is marijuana, as designated in K.S.A. 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as designated in K.S.A. 65-4105(h), and amendments thereto, violation of subsection (b) is a:

(A) Class B nonperson misdemeanor, except as provided in subparagraphs (B) and (C);

(B) class A nonperson misdemeanor if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense; and

(C) drug severity level 5 felony if that person has two or more prior convictions under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense.

(d) It shall be an affirmative defense to prosecution under this section arising out of a person's possession of:

(1) Any cannabidiol treatment preparation if the person:

~~(A)~~ Has a debilitating medical condition, as defined in K.S.A. 2020 Supp. 65-6235, and amendments thereto, or is the parent or guardian of a minor child who has such debilitating medical condition;

~~(B)~~ is possessing a cannabidiol treatment preparation, as defined in K.S.A. 2020 Supp. 65-6235, and amendments thereto, that is being used to treat such debilitating medical condition; and

~~(C)~~ has possession of a letter, at all times while the person has possession of the cannabidiol treatment preparation, that:

~~(i)~~ Shall be shown to a law enforcement officer on such officer's request;

~~(ii)~~ is dated within the preceding 15 months and signed by the physician licensed to practice medicine and surgery in Kansas who diagnosed the debilitating medical condition;

~~(iii)~~ is on such physician's letterhead; and

~~(iv)~~ identifies the person or the person's minor child as such physician's patient and identifies the patient's debilitating medical condition; and

(2) marijuana if the person:

(A) Is not a resident of this state and is in this state temporarily; and

(B) the marijuana was acquired and possessed in conformity with the laws of the state where such person is a resident.

(e) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance or controlled substance analog.";

On page 32, in line 1, after "Supp.", by inserting "21-5706,";

On page 1, by striking all in line 2; in line 3, before "reducing" by inserting "providing an

affirmative defense to prosecution for possession of marijuana for a person who is not a resident of this state;"; in line 11, after "Supp." by inserting "21-5706,"

Senator \_\_\_\_\_