

SESSION OF 2011

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2049

As Recommended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2049 would amend KSA 65-4105, concerning controlled substances included in schedule I. Specifically, it would move Tetrahydrocannabinols, commonly known as THC, from subsection (d) to a new subsection (h) addressing cannabinoids. It would also add the following substances to that subsection: Naphthoylindoles, Naphthylmethylindoles, Naphthoylpyrroles, Naphthylmethylindenes, Phenylacetylindoles, Cyclohexyphenols, Benzoylindoles, and 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo [1,2,3-de]-1,4-benzoxazin-6-y-l]-1-naphthalenylmethanone. A type of synthetic marijuana commonly referred to as K-3 would be included in the new subsection.

The bill also would amend KSA 21-36a05 and 21-36a06 by adding the substances in new subsection (h) to the list of substances that are illegal to cultivate, distribute, possess, or possess with the intent to distribute. Cultivation, distribution, and possession with the intent to distribute is a severity level 3 drug felony for a first offense; a level 2 for a second conviction or if the offender is over 18 and distribution or possession with intent to distribute occurs on or within 1,000 feet of school property; and a level 1 for a third conviction. Possession is a class A nonperson misdemeanor for a first conviction, and a severity level 4 felony for a subsequent conviction.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

In the House Committee on Corrections and Juvenile Justice, representatives of the Johnson County Sheriff's Office and Criminalistics Lab and the Kansas Peace Officers' Association, in addition to an assistant district attorney from Sedgwick County, the Salina chief of police, and two private citizens offered testimony in support of HB 2049. Proponents explained that the general chemical class approach the bill uses would keep manufacturers from simply transitioning to similar uncontrolled compounds, which, they suggested, occurred after the passage of 2010 HB 2411, outlawing a type of synthetic marijuana commonly referred to as K-2. No opponents provided testimony. The Committee amended the bill by adding the substances in new subsection (h) to the list of substances that are illegal to cultivate, distribute, possess, or possess with the intent to distribute.

The Kansas Sentencing Commission estimates an increase in annual convictions pursuant to HB 2049 of 5, 10, or 15 percent and that 15 percent of those convicted would go to prison. Under these scenarios, the bill could result in an increase of 8, 15, or 23 prison beds in FY 2012 and 15, 31, or 46 beds in FY 2021. As the number of male inmates already exceeds capacity, the bed impact of this bill in addition to the impact of other possible legislation is likely to require additional expenditures. The Governor's Recommended FY 2012 Budget includes \$2.5 million for contract prison beds and if construction is necessary, the Department of Corrections has identified expansion projects with a cost of \$22.7 million for construction and \$9.3 million for operation.

The Kansas Bureau of Investigation estimates that 12 new drugs would be used illegally, requiring identification in its labs for criminal cases, at a cost of \$7,200.

The Office of Judicial Administration reports that the fiscal effect of the bill would most likely be accommodated within the existing schedule of court cases and would not require additional resources.