

Journal of the House

SIXTY-THIRD DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Thursday, May 6, 2021, 10:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Finch in the chair.

The roll was called with 123 members present.

Rep. Howard was excused on verified illness.

Rep. Averkamp was excused on excused absence by the Speaker.

Excused later: Rep. Samsel.

Prayer by Chaplain Brubaker:

Almighty God,
today we are reminded how good You are.
Please come alongside our legislators today
and may their decisions be in line with Your purpose.
Give them encouragement
when their hard work and desire for progress
becomes frustrated or hopeless.
Guide them with Your counsel
when they are inclined to lead by their own impulses.
Give them confidence in Your plan and will
when they are confused with uncertainty.
Teach them the importance of patience
when faced with those who don't or won't seem to listen.
Give them Your grace to work together
when it appears their best efforts seem to be failing.
In Your Name I pray, Amen.

The Pledge of Allegiance was led by Rep. Day.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Federal and State Affairs: **HB 2454**.

Judiciary: **SB 286**.

MESSAGES FROM THE SENATE

The Senate concurs in House amendments to **SB 39**, and requests return of the bill.

The Senate adopts the Conference Committee report on **SB 47**.

The Senate adopts the Conference Committee report on **SB 60**.

The Senate adopts the Conference Committee report on **SB 170**.

The Senate adopts the Conference Committee report on **SB 238**.

The Senate announced the appointment of Senators Baumgardner, Erickson, and Sykes to replace Senators Longbine, Peck, and Holscher as conferees on **HB 2134**.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Hawkins, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **HB 2313**, **SB 158**, **HB 2056**.

MOTIONS TO CONCUR AND NONCONCUR

On motion of Rep. A. Smith, the House nonconcurred in Senate amendments to **HB 2313** and asked for a conference.

Speaker pro tem Finch thereupon appointed Reps. A. Smith, Mason and Gartner as conferees on the part of the House.

CHANGE OF CONFEREES

Speaker pro tem Finch announced the appointment of Reps. Williams, Hoffman, and Winn to replace Reps. S. Johnson, Croft, and Neighbor as members of the conference committee on **HB 2134**.

On motion of Rep. Hawkins, the House resolved into the Committee of the Whole, with Rep. Landwehr in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Landwehr, Committee of the Whole report, as follows, was adopted:

Recommended that **HB 2056** be passed.

Committee report recommending a substitute bill to **SB 158** be adopted.

Also, on motion of Rep. Hoye to amend **H Sub SB 158**, the motion did not prevail.

Also, roll call was demanded on motion of Rep. Howe to amend **H Sub SB 158** as amended by House Committee, on page 4, in line 18, after the first "a" by inserting "licensed pharmacy that is operated by a"; also in line 18, after "person" by inserting "who is a pharmacist licensed in this state and who has registered with the board of pharmacy and been";

On page 31, in line 40, after "(6)" by inserting "the applicant is applying for a license to dispense medical marijuana at retail and demonstrates that such applicant is a pharmacist licensed in this state that has registered with the board of pharmacy in accordance with rules and regulations adopted by the board;

(7)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 39, in line 18, after "(1)" by inserting "Pharmacy to register as a"; also in line 18, by striking the first "to" and inserting ";

(2) pharmacy to";

Also on page 39, also in line 18, after "report" by inserting "all transactions";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly

On roll call, the vote was: Yeas 45; Nays 73; Present but not voting: 0; Absent or not voting: 7.

Yeas: Anderson, Bergquist, Blex, Burris, B. Carpenter, Corbet, Delperdang, Dodson, M., Donohoe, Ellis, Esau, Estes, French, Highland, Hoffman, Howe, Huebert, Humphries, Jacobs, T. Johnson, Landwehr, Lee-Hahn, Mason, Minnix, Moser, Murphy, Orr, Owens, Penn, Proctor, Rahjes, Resman, Rhiley, Samsel, Sanders, Smith, A., Smith, C., Smith, E., Tarwater, Toplikar, Turner, Waggoner, Wasinger, Wheeler, K. Williams.

Nays: Alcalá, Amyx, Arnberger, Baker, Ballard, Barker, Bergkamp, Bishop, Borjon, Burroughs, Byers, Carlin, Carlson, W. Carpenter, Clark, Clayton, Coleman, Collins, Concannon, Curtis, Day, Eplee, Fairchild, Featherston, Finch, Finney, Francis, Garber, Gartner, Haswood, Hawkins, Helgerson, Helmer, Henderson, Highberger, Hoheisel, Houser, Hoyer, Kelly, Kessler, Kuether, Long, Lynn, Miller, Neely, Newland, Ohaebosim, Ousley, Parker, F. Patton, Poetter, Poskin, Probst, Proehl, Ralph, Ruiz, L., Ruiz, S., Ryckman, Sawyer, Schreiber, Seiwert, Stogsdill, Sutton, Thomas, Thompson, Vaughn, Victors, Waymaster, Weigel, Winn, Wolfe Moore, Woodard, Xu.

Present but not voting: None.

Absent or not voting: Awerkamp, Carmichael, Croft, Howard, Jennings, S. Johnson, Neighbor.

The motion of Rep. Howe to amend did not prevail.

Also, on motion of Rep. Finney, **H Sub SB 158** be amended as amended by House Committee, on page 3, in line 35, after "(12)" by inserting "lupus;

(13)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly

Also, on motion of Rep. Proehl, **H Sub SB 158** be amended as amended by House Committee, on page 25, in line 5, after "(a)" by inserting "(1) Within 45 days of the effective date of this act, the director of alcoholic beverage control shall establish a medical marijuana pilot program and select a company for the purpose of cultivating, testing, processing, distributing and researching medical marijuana. Such company shall operate the pilot program by entering into a public-private partnership with the university of Kansas, Kansas state university and Pittsburg state university. Such public-private partnership shall develop and provide the director with recommended best practices for all aspects of the cultivation, processing, dispensing and research and development of medical marijuana.

(2) Notwithstanding any provision of this act to the contrary, the director shall issue such company one cultivator license, one laboratory license, one processor license, one distributor license and three retail dispensary licenses that shall be valid for the duration of the public-private partnership.

(b) (1)";

Also on page 25, in line 11, by striking "(b)" and inserting "(2)"; in line 13, by striking "(1)" and inserting "(A)"; in line 19, by striking "(A)" and inserting "(i)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly

Also, on motion of Rep. Proctor to amend **H Sub SB 158**, the motion did not prevail.

Also, roll call was demanded on further motion of Rep. Proctor to amend **H Sub SB 158** as amended by House Committee, on page 1, in line 22, by striking "47" and inserting "46";

On page 27, in line 2, by striking "45" and inserting "44"; in line 8, by striking "45" and inserting "44";

On page 31, in line 20, by striking "43" and inserting "42"; in line 33, by striking "42" and inserting "41";

On page 32, in line 43, by striking "a" and inserting "pill or capsule"; also in line 43, by striking "described in section 31, and amendments thereto";

On page 34, in line 4, by striking "43" and inserting "42"; in line 26, by striking "38" and inserting "37";

On page 35, in line 9, by striking "39" and inserting "38"; in line 20, by striking "Only the following forms of"; in line 21, by striking "may" and inserting "shall only"; also in line 21, by striking the colon; by striking all in lines 22 through 27; in line 28, by striking all before the period and inserting "in pill or capsule form"; in line 33, by striking "Plant material" and inserting "No pill or capsule"; also in line 33, by striking "not"; in line 35, by striking all after "(e)"; by striking all in line 36; in line 37, by striking all before "medical"; by striking all in lines 39 through 43;

On page 36, by striking all in lines 1 through 13;

On page 49, in line 42, by striking "83" and inserting "82";

On page 53, in line 10, by striking "83" and inserting "82"; in line 40, by striking "83" and inserting "82";

On page 54, in line 18, by striking "83" and inserting "82";

On page 57, in line 9, by striking "83" and inserting "82"; in line 33, by striking "83" and inserting "82";

On page 58, in line 6, by striking "38" and inserting "37"; in line 35, by striking "39" and inserting "38";

On page 59, in line 5, by striking "83" and inserting "82"; also in line 5, by striking "39" and inserting "38"; in line 6, by striking "39" and inserting "38";

On page 70, in line 20, by striking "83" and inserting "82"; in line 21, by striking "67" and inserting "66";

On page 105, in line 42, by striking "83" and inserting "82";

On page 117, in line 1, by striking "83" and inserting "82";

On page 121, in line 42, by striking "39" and inserting "38";

And by renumbering sections accordingly;

On page 1, in the title, in line 16, by striking "67" and inserting "66"; in line 18, by striking "39" and inserting "38"

On roll call, the vote was: Yeas 39; Nays 79; Present but not voting: 0; Absent or not voting: 7.

Yeas: Arnberger, Bergquist, Burris, B. Carpenter, Collins, Corbet, Croft, Donohoe, Ellis, Esau, Estes, French, Helmer, Highland, Hoffman, Howe, Huebert, Jacobs, Jennings, T. Johnson, Landwehr, Lee-Hahn, Mason, Minnix, Moser, Orr, Owens, Penn, Proctor, Resman, Sanders, Smith, A., Smith, C., Smith, E., Toplikar, Waggoner, Wasinger, Wheeler, K. Williams.

Nays: Alcalá, Amyx, Anderson, Baker, Ballard, Barker, Bergkamp, Bishop, Blex, Borjon, Burroughs, Byers, Carlin, Carlson, Carmichael, W. Carpenter, Clark, Clayton,

Coleman, Concannon, Curtis, Day, Delperdang, Dodson, M., Eplee, Fairchild, Featherston, Finch, Finney, Francis, Gartner, Hawkins, Helgerson, Henderson, Highberger, Hoheisel, Houser, Hoye, S. Johnson, Kelly, Kessler, Kuether, Long, Lynn, Miller, Murphy, Neelly, Neighbor, Newland, Ohaebosim, Ousley, Parker, F. Patton, Poetter, Poskin, Probst, Proehl, Rahjes, Ralph, Ruiz, L., Ruiz, S., Ryckman, Samsel, Sawyer, Schreiber, Seiwert, Stogsdill, Sutton, Tarwater, Thomas, Thompson, Turner, Vaughn, Waymaster, Weigel, Winn, Wolfe Moore, Woodard, Xu.

Present but not voting: None.

Absent or not voting: Awerkamp, Garber, Haswood, Howard, Humphries, Rhiley, Victors.

The motion of Rep. Proctor to amend did not prevail.

Also, on motion of Rep. Kessler to amend **H Sub SB 158**, the motion did not prevail.

Also, on motion of Rep. Coleman to amend **H Sub SB 158**, the motion did not prevail.

Also, roll call was demanded on motion of Rep. Waggoner, to amend **H Sub SB 158** as amended by House Committee, on page 16, by striking all in line 19; in line 21, after "marijuana" by inserting "; and

(7) signage requirements for retail dispensaries to properly warn pregnant women and anyone with psychiatric or emotional disorders of the adverse effects of marijuana";

On page 35, in line 11, after "shall" by inserting ":

(1) Maintain a 9" by 18" sign that is prominently displayed near the check-out counter and the primary door of entry and exit that includes a warning in accordance with rules and regulations adopted by the board of healing arts that warns pregnant women and anyone with psychiatric or emotional disorders that marijuana of any type can be dangerous to your health; and

(2)"

On roll call, the vote was: Yeas 73; Nays 47; Present but not voting: 0; Absent or not voting: 5.

Yeas: Anderson, Arnberger, Bergkamp, Bergquist, Blex, Burris, Burroughs, Carlin, Carlson, B. Carpenter, Clark, Collins, Corbet, Croft, Delperdang, Donohoe, Ellis, Esau, Featherston, Finch, Francis, French, Garber, Hawkins, Helgerson, Helmer, Highland, Hoffman, Hoheisel, Howe, Hoye, Huebert, Humphries, Jacobs, Jennings, S. Johnson, Landwehr, Lee-Hahn, Long, Lynn, Mason, Miller, Minnix, Moser, Neelly, Newland, Orr, Owens, F. Patton, Poskin, Probst, Proctor, Rahjes, Rhiley, Ryckman, Samsel, Sanders, Seiwert, Smith, A., Smith, C., Smith, E., Tarwater, Thomas, Thompson, Toplikar, Turner, Waggoner, Wasinger, Waymaster, Weigel, Wheeler, K. Williams, Wolfe Moore.

Nays: Alcalá, Amyx, Baker, Barker, Bishop, Borjon, Byers, Carmichael, W. Carpenter, Clayton, Coleman, Concannon, Curtis, Day, Dodson, M., Eplee, Fairchild, Finney, Gartner, Haswood, Henderson, Highberger, Houser, T. Johnson, Kelly, Kessler, Kuether, Murphy, Neighbor, Ohaebosim, Ousley, Parker, Poetter, Proehl, Ralph, Resman, Ruiz, L., Ruiz, S., Sawyer, Schreiber, Stogsdill, Sutton, Vaughn, Victors, Winn, Woodard, Xu.

Present but not voting: None.

Absent or not voting: Awerkamp, Ballard, Estes, Howard, Penn.

Also, on further motion of Rep. Waggoner to amend **H Sub SB 158**, the motion did

not prevail.

Also, roll call was demanded on further motion of Rep. Waggoner to amend **H Sub SB 158** as amended by House Committee, on page 31, in line 18, after "(b)" by inserting "Except as provided in subsection (e).";

On page 32, following line 21, by inserting:

"(e) The board of county commissioners of any county may prohibit a licensee from establishing a facility licensed under this act in such county by adoption of a resolution prohibiting the establishment of any facility licensed under this act in such county. Any licensee that is lawfully operating at the time such resolution is adopted shall be permitted to continue operating in such county and shall not be denied renewal of any license based upon the adoption of such resolution.";

On page 34, in line 16, by striking "unless prohibited pursuant to subsection (f).";

On page 35, by striking all in lines 13 through 19;

On page 57, in line 38, by striking "unless prohibited pursuant to subsection (f).";

On page 58, by striking lines 38 through 43;

On page 59, by striking lines 1 and 2;

On page 63, in line 17, by striking "30" and inserting "26";

On page 1, in the title, in line 13, by striking "retail dispensaries" and inserting "licensed facilities"

On roll call, the vote was: Yeas 60; Nays 55; Present but not voting: 0; Absent or not voting: 10.

Yeas: Anderson, Arnberger, Bergkamp, Bergquist, Blex, Burris, B. Carpenter, W. Carpenter, Corbet, Croft, Delperdang, Dodson, M., Donohoe, Ellis, Eplee, Esau, Estes, Fairchild, Finch, Francis, French, Garber, Hawkins, Helgerson, Highberger, Highland, Houser, Howe, Humphries, Jacobs, S. Johnson, Kelly, Landwehr, Lee-Hahn, Long, Lynn, Mason, Minnix, Moser, Murphy, Newland, Owens, Proctor, Proehl, Rahjes, Resman, Rhiley, Sanders, Seiwert, Smith, A., Smith, C., Smith, E., Sutton, Tarwater, Thomas, Thompson, Toplikar, Turner, Waggoner, Wasinger.

Nays: Alcalá, Amyx, Baker, Ballard, Barker, Bishop, Borjon, Burroughs, Byers, Carlin, Carlson, Carmichael, Clark, Clayton, Coleman, Collins, Concannon, Curtis, Day, Featherston, Finney, Gartner, Haswood, Henderson, Hoheisel, Hoye, Jennings, T. Johnson, Kessler, Kuether, Miller, Neelly, Neighbor, Ohaebosim, Orr, Parker, Poetter, Poskin, Probst, Ruiz, L., Ruiz, S., Samsel, Sawyer, Schreiber, Stogsdill, Vaughn, Victors, Waymaster, Weigel, Wheeler, K. Williams, Winn, Wolfe Moore, Woodard, Xu.

Present but not voting: None.

Absent or not voting: Awerkamp, Helmer, Hoffman, Howard, Huebert, Ousley, F. Patton, Penn, Ralph, Ryckman.

The motion of Rep. Waggoner to amend prevailed.

Also, on further motion of Rep. Waggoner to amend **H Sub SB 158**, the motion did not prevail.

Also, on further motion of Rep. Waggoner, **H Sub SB 158** be amended as amended by House Committee, on page 7, in line 14, after "(1)" by inserting "(A)"; in line 15, after "condition" by inserting ":

(i)";

Also on page 7, in line 16, after "act" by inserting " or

(ii) that was previously recommended for approval by the committee and adopted

by the secretary of health and environment through rules and regulations be removed as a qualifying medical condition for the purposes of this act";

Also on page 7, in line 17, before "The" by inserting "(B)"; in line 19, after "add" by inserting "or remove"; in line 24, after "to" by inserting "or removal from"; in line 41, after "addition" by inserting "or removal"; following line 43, by inserting:

"(4) Prior to July 1, 2024, and every three years thereafter, the committee shall review all diseases or conditions that have been recommended for approval by the committee and adopted by the secretary of health and environment through rules and regulations to determine if the inclusion of any such diseases or conditions are no longer supported by scientific evidence. The inclusion of any such disease or condition that the committee determines is no longer supported by scientific evidence shall be recommended by the committee to the secretary of health and environment for removal from the list of qualifying medical conditions."

Also, on motion of Rep. Coleman to amend **H Sub SB 158**, Rep. B. Carpenter requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment was germane.

The motion of Rep. Coleman to amend **H Sub SB 158**, the motion did not prevail.

Also, roll call was demanded on motion of Rep. E. Smith to amend **H Sub SB 158** as amended by House Committee, on page 1, by striking all in lines 22 through 36;

By striking all on pages 2 through 121 and inserting:

"New Section 1. (a) False representation of medical marijuana information is knowingly providing false information or documentation to a law enforcement officer:

(1) With the intent to cause such law enforcement officer to believe the person qualifies for the affirmative defense to possession of marijuana described in K.S.A. 2020 Supp. 21-5706, and amendments thereto; and

(2) that causes such law enforcement officer to take any action related to the person that the law enforcement officer otherwise would not have taken if the false information or documentation was not provided to the law enforcement officer.

(b) False representation of medical marijuana information is a severity level 8, nonperson felony.

(c) This section shall be a part of and supplemental to the Kansas criminal code.

Sec. 2. 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 any ~~cannabidiol treatment preparation~~ medical marijuana, as defined in K.S.A. 2020 Supp. 65-6235, and amendments thereto, if the person:

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

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

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

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

(B) ~~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;~~

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

(D) ~~identifies the person or the person's minor child as such physician's patient and identifies the patient's debilitating medical condition not more than 14 grams of medical~~

marijuana or a day's supply for one person unless:

(A) Such person is in transit to the place of residence of such person with such debilitating medical condition; or

(B) such marijuana is in a secure location within the residence of such person with such debilitating medical condition or the caregiver for such person.

(e) If a law enforcement officer has reason to believe a person asserting an affirmative defense pursuant to subsection (d) has committed a misdemeanor violation of this section, such officer may issue such person a notice to appear, as defined in K.S.A. 22-2202, and amendments thereto.

(f) 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.

Sec. 3. K.S.A. 2020 Supp. 22-2202 is hereby amended to read as follows: 22-2202.

(a) "Appellate court" means the supreme court or court of appeals, depending on the context in which the term is used and the respective jurisdiction of those courts over appeals in criminal cases, as provided in K.S.A. 22-3601, and amendments thereto.

(b) "Appearance bond" means an agreement, with or without security, entered into by a person in custody by which the person is bound to comply with the conditions specified in the agreement.

(c) "Arraignment" means the formal act of calling the defendant before a court having jurisdiction to impose sentence for the offense charged, informing the defendant of the offense with which the defendant is charged, and asking the defendant whether the defendant is guilty or not guilty.

(d) "Arrest" means the taking of a person into custody in order that the person may be forthcoming to answer for the commission of a crime. The giving of a notice to appear is not an arrest.

(e) "Bail" means the security given for the purpose of insuring compliance with the terms of an appearance bond.

(f) "Bind over" means require a defendant to appear and answer before a district judge having jurisdiction to try the defendant for the felony with which the defendant is charged.

(g) "Charge" means a written statement presented to a court accusing a person of the commission of a crime and includes a complaint, information or indictment.

(h) "Complaint" means a written statement under oath of the essential facts constituting a crime, except that the following shall be deemed a valid complaint if it is signed by the law enforcement officer:

(1) A citation or notice to appear issued by a law enforcement officer pursuant to and in compliance with K.S.A. 8-2106, and amendments thereto; or

(2) a citation or notice to appear issued pursuant to and in compliance with K.S.A. 32-1049, and amendments thereto, shall be deemed a valid complaint if it is signed by the law enforcement officer; or

(3) a notice to appear issued by a law enforcement officer pursuant to K.S.A. 22-2408, and amendments thereto, for a violation of K.S.A. 2020 Supp. 21-5706, and amendments thereto, when the substance involved is marijuana.

(i) "Custody" means the restraint of a person pursuant to an arrest or the order of a court or magistrate.

(j) "Detention" means the temporary restraint of a person by a law enforcement

officer.

(k) "Indictment" means a written statement, presented by a grand jury to a court, ~~which that~~ charges the commission of a crime.

(l) "Information" means a verified written statement signed by a county attorney or other authorized representative of the state of Kansas presented to a court, ~~which that~~ charges the commission of a crime. An information verified upon information and belief by the county attorney or other authorized representative of the state of Kansas shall be sufficient.

(m) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof or with a duty to maintain or assert custody or supervision over persons accused or convicted of crime, and includes court services officers, community corrections officers, parole officers and directors, security personnel and keepers of correctional institutions, jails or other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority.

(n) "Magistrate" means an officer having power to issue a warrant for the arrest of a person charged with a crime and includes justices of the supreme court, judges of the court of appeals and judges of district courts.

(o) "Notice to appear" means a written request, issued by a law enforcement officer, that a person appear before a designated court at a stated time and place.

(p) "Preliminary examination" means a hearing before a magistrate on a complaint or information to determine if a felony has been committed and if there is probable cause to believe that the person charged committed it.

(q) "Prosecuting attorney" means any attorney who is authorized by law to appear for and on behalf of the state of Kansas in a criminal case, and includes the attorney general, an assistant attorney general, the county or district attorney, an assistant county or district attorney and any special prosecutor whose appearance is approved by the court. In the case of prosecution for violation of a city ordinance, also, "prosecuting attorney" means the city attorney or any assistant city attorney.

(r) "Search warrant" means a written order made by a magistrate directed to a law enforcement officer commanding the officer to search the premises described in the search warrant and to seize property described or identified in the search warrant.

(s) "Summons" means a written order issued by a magistrate directing that a person appear before a designated court at a stated time and place and answer to a charge pending against the person.

(t) "Warrant" means a written order made by a magistrate directed to any law enforcement officer commanding the officer to arrest the person named or described in the warrant.

Sec. 4. K.S.A. 2020 Supp. 65-6235 is hereby amended to read as follows: 65-6235.

(a) This section shall be known and may be cited as Claire and Lola's law.

(b) As used in this section and K.S.A. 2020 Supp. 21-5706, and amendments thereto:

(1) ~~"Cannabidiol treatment preparation" means an oil containing cannabidiol (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol)) and tetrahydrocannabinol, as described in K.S.A. 65-4105, and amendments thereto, and having a tetrahydrocannabinol concentration of no more than~~

5% relative to the cannabidiol concentration in the preparation, verified through testing by a third-party, independent laboratory. "Caregiver" means a person who assists a person with a debilitating medical condition in administering medical marijuana because of physical or mental challenges associated with such condition that impair the person with such condition from caring for oneself.

(2) "Debilitating medical condition" means ~~a medically diagnosed chronic disease or medical condition causing a serious impairment of strength or ability to function, including one that produces seizures one of the following conditions~~, for which the patient is under current and active treatment by a physician licensed to practice medicine and surgery in Kansas:

(A) A disease that has been diagnosed by a physician as likely to cause death within three years;

(B) multiple sclerosis or other severe neurologic disease that impairs motor or cognitive function;

(C) amyotrophic lateral sclerosis;

(D) progressive dementia, including Alzheimer's disease;

(E) Parkinson's disease;

(F) acquired immune deficiency syndrome;

(G) severe epilepsy, including childhood epilepsy; or

(H) a condition for which the patient is receiving medical treatment within the immediately preceding two months that negatively damages appetite and causes severe weight loss, including, but not limited to, chemotherapy and severe gastric disease.

(3) "Tetrahydrocannabinol concentration" means ~~the combined percentage of tetrahydrocannabinol and its optical isomers, their salts and acids and salts of their acids, reported as free tetrahydrocannabinol on a percent by weight basis.~~

(4) "Third-party, independent laboratory" means an organization:

(A) ~~That is accredited to ISO/IEC 17025 of the international organization for standardization and the international electrotechnical commission by an accreditation body that is a signatory of a multilateral recognition arrangement with the international accreditation forum, international laboratory accreditation cooperation or other similar body;~~

(B) ~~whose scope of accreditation includes testing for cannabinoid potency; and~~

(C) ~~that is not affiliated with the producer of the item being tested~~ "Medical marijuana" means marijuana that is cultivated, processed, tested, dispensed, possessed or used for a medical purpose.

(4) "Physician" means an individual licensed to practice medicine and surgery in this state and who is certified by the board of healing arts to recommend treatment with medical marijuana.

(c) No agency of this state or political subdivision thereof shall initiate proceedings to remove a child from the home of the child's parent or guardian or initiate any child protection action or proceeding based solely upon the parent's or the child's possession or use of cannabidiol treatment preparation in accordance with the provisions of K.S.A. 2020 Supp. 21-5706(d), and amendments thereto.

(d) Nothing in this section shall be construed to require the Kansas medical assistance program or any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical corporation contract, fraternal benefit society or health maintenance organization that provides

coverage for accident and health services and that is delivered, issued for delivery, amended or renewed on or after July 1, 2019, to provide payment or reimbursement for any cannabidiol treatment preparation.

(e) Nothing in this section shall be construed to allow the possession, sale, production, redistribution or use of any other form of cannabis.

Sec. 5. K.S.A. 2020 Supp. 21-5706, 22-2202 and 65-6235 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in lines 2 through 19 and inserting "medical marijuana; creating an affirmative defense to the crime of possession of a controlled substance for medical marijuana in certain circumstances; creating the crime of false representation of medical marijuana information; amending K.S.A. 2020 Supp. 21-5706, 22-2202 and 65-6235 and repealing the existing section."

On roll call, the vote was: Yeas 37; Nays 81; Present but not voting: 0; Absent or not voting: 7.

Yeas: Bergquist, Blex, Burris, Clark, Corbet, Croft, Donohoe, Ellis, Esau, Estes, French, Helgerson, Helmer, Highland, Howe, Huebert, Humphries, Jacobs, Landwehr, Lee-Hahn, Mason, Minnix, Moser, Murphy, Newland, Orr, Owens, Penn, Proctor, Resman, Rhiley, Seiwert, Smith, A., Smith, E., Turner, Waggoner, Wasinger.

Nays: Alcalá, Amyx, Anderson, Arnberger, Baker, Ballard, Barker, Bergkamp, Bishop, Borjon, Burroughs, Byers, Carlin, Carlson, Carmichael, B. Carpenter, W. Carpenter, Clayton, Coleman, Collins, Concannon, Curtis, Day, Delperdang, Dodson, M., Eplee, Fairchild, Featherston, Finch, Finney, Francis, Garber, Gartner, Haswood, Hawkins, Henderson, Highberger, Hoheisel, Houser, Hoye, S. Johnson, T. Johnson, Kelly, Kessler, Kuether, Long, Lynn, Miller, Neelly, Neighbor, Ohaebosim, Ousley, Parker, F. Patton, Poetter, Poskin, Probst, Proehl, Rahjes, Ralph, Ruiz, L., Ruiz, S., Ryckman, Samsel, Sanders, Sawyer, Schreiber, Smith, C., Stogsdill, Sutton, Thomas, Thompson, Vaughn, Victors, Waymaster, Weigel, Wheeler, Winn, Wolfe Moore, Woodard, Xu.

Present but not voting: None.

Absent or not voting: Awerkamp, Hoffman, Howard, Jennings, Tarwater, Toplikar, K. Williams.

The motion of Rep. E. Smith to amend did not prevail.

Also, on further motion of Rep. E. Smith to amend **H Sub SB 158**, the motion was withdrawn.

Also, on motion of Rep. B. Carpenter, **H Sub SB 158** be amended as amended by House Committee, on page 1, in line 22, by striking "47" and inserting "46";

On page 3, in line 5, by striking "31" and inserting "30";

On page 4, in line 16, by striking "committee" and inserting "committee"; in line 20, by striking "30" and inserting "29";

On page 27, in line 2, by striking "45" and inserting "44"; in line 8, by striking "45" and inserting "44";

On page 31, in line 20, by striking "43" and inserting "42"; in line 33, by striking "42" and inserting "41";

On page 32, in line 27, by striking "31" and inserting "30"; in line 43, by striking "31" and inserting "30";

On page 33, by striking all in lines 8 through 43;

On page 34, by striking all in lines 1 through 12; in line 16, by striking "(f)" and inserting "(g)"; in line 26, by striking "38" and inserting "37";

On page 35, in line 8, after "(d)" by inserting "(1) Each associated, key and support employee of a licensed retail dispensary shall submit an application for an employee license for such employee in such form and manner as prescribed by the director. A separate license application shall be submitted for each employee. The director shall issue a license to an applicant if all of the following conditions are met:

(A) The criminal history record check conducted pursuant to section 42, and amendments thereto, with respect to the applicant demonstrates that the applicant is not disqualified from holding a license pursuant to section 20, and amendments thereto; and

(B) the applicant meets all other licensure eligibility conditions established in rules and regulations adopted by the secretary of revenue and has paid all required fees.

(2) A license shall be valid for a period of two years from the date such license is issued and may be renewed by submitting a license renewal application and paying the required fee.

(e)";

Also on page 35, in line 9, by striking "39" and inserting "38";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 35, in line 28, by striking "32" and inserting "31"; in line 41, by striking "31" and inserting "30";

On page 38, in line 36, by striking the comma and inserting "and"; also in line 36, by striking "and"; in line 37, by striking all before the semicolon;

On page 45, in line 24, after "employment" by inserting a period; in line 36, by striking "30" and inserting "29";

On page 49, in line 42, by striking "83" and inserting "82";

On page 51, in line 17, by striking "31" and inserting "30";

On page 52, in line 24, by striking "30" and inserting "29";

On page 53, in line 10, by striking "83" and inserting "82"; in line 40, by striking "83" and inserting "82";

On page 54, in line 18, by striking "83" and inserting "82";

On page 57, in line 9, by striking "83" and inserting "82"; in line 33, by striking "83" and inserting "82"; also in line 33, by striking "30" and inserting "29"; in line 34, by striking "30" and inserting "29"; in line 38, by striking "(f)" and inserting "(g)";

On page 58, in line 6, by striking "38" and inserting "37"; in line 33, after "(d)" by inserting "(1) Each associated, key and support employee of a licensed retail dispensary shall submit an application for an employee license for such employee in such form and manner as prescribed by the director. A separate license application shall be submitted for each employee. The director shall issue a license to an applicant if all of the following conditions are met:

(A) The criminal history record check conducted pursuant to section 42, and amendments thereto, with respect to the applicant demonstrates that the applicant is not disqualified from holding a license pursuant to section 20, and amendments thereto; and

(B) the applicant meets all other licensure eligibility conditions established in rules and regulations adopted by the secretary of revenue and has paid all required fees.

(2) A license shall be valid for a period of two years from the date such license is

issued and may be renewed by submitting a license renewal application and paying the required fee.

(e)";

Also on page 58, in line 35, by striking "39" and inserting "38";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 59, in line 5, by striking "83" and inserting "82"; also in line 5, by striking "39" and inserting "38"; in line 6, by striking "39" and inserting "38";

On page 63, in line 17, by striking "30" and inserting "29";

On page 67, in line 38, by striking "30" and inserting "29";

On page 70, in line 20, by striking "83" and inserting "82"; in line 21, by striking "67" and inserting "66";

On page 105, in line 42, by striking "83" and inserting "82";

On page 117, in line 1, by striking "83" and inserting "82";

On page 121, in line 42, by striking "30" and inserting "29"; also in line 42, by striking "39" and inserting "38";

And by renumbering sections accordingly;

On page 1, in the title, in line 16, by striking "67" and inserting "66"; in line 18, by striking "30" and inserting "29"; also in line 18, by striking "39" and inserting "38"

Also, on further motion of Rep. B. Carpenter, **H Sub SB 158** be amended as amended by House Committee, on page 11, in line 29, by striking all after "violation"; in line 30, by striking "section" and inserting "of this act"; and **H Sub SB 158** be passed as amended.

INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Hawkins, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 29**.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 29** submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed.

And your committee on conference recommends the adoption of this report.

STEVEN JOHNSON

CHRIS CROFT

Conferees on part of House

JEFF LONGBINE

VIRGIL PECK

Conferees on part of Senate

On motion of Rep. S. Johnson the conference committee report on **SB 29** to agree to disagree, was adopted.

Speaker pro tem Finch thereupon appointed Reps. S. Johnson, Croft and Neighbor as second conferees on the part of the House.

MESSAGES FROM THE SENATE

The Senate announced the appointment of Senators Warren, Wilborn, and Haley to replace Senators Kerschen, Straub, and Ware as conferees on **SB 160**.

The Senate announced the appointment of Senators Alley, Claeys, and Holland to replace Senators Warren, Wilborn, and Corson as conferees on **SB 58**.

The Senate accounced the appointment of Senators Warren, Baumgardner, and Haley to replace Senators Tyson, Alley, and Holland on **HB 2106**.

INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS

On emergency motion of Rep. Hawkins pursuant to House Rule 2311, **HB 2056** and **H Sub SB 158** were advanced to Final Action on Bills and Concurrent Resolutions.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

H Sub SB 158, AN ACT concerning health and healthcare; enacting the Kansas medical marijuana regulation act; relating to medical cannabis; licensure and regulation of the manufacture, transportation and sale of medical cannabis; crimes, punishment and criminal procedure; creating the crimes of unlawful transport and unlawful storage of medical marijuana; exceptions from the unlawful manufacture and possession of a controlled substance; prescribing powers, duties and functions of the secretary of health and environment, secretary of revenue, board of healing arts and board of pharmacy; rules and regulations; providing certain fines and penalties for violations; establishing the medical marijuana registration fund and the medical marijuana business entity regulation fund; allowing counties to prohibit retail dispensaries; amending K.S.A. 65-28b08, 65-4107, 79-5201 and 79-5210 and K.S.A. 2020 Supp. 19-101a, 21-5703, 21-5705, 21-5706, 21-5706, as amended by section 67 of this act, 21-5707, 21-5709, 21-5710, 23-3201, 38-2269, 44-501, 44-706, 65-1120 and 65-4105 and sections 2, 3, 4, 17, 18, 30 and 39 of this act, and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 79; Nays 42; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Amyx, Anderson, Baker, Ballard, Barker, Bergkamp, Bishop, Borjon, Burroughs, Byers, Carlin, Carlson, Carmichael, B. Carpenter, W. Carpenter, Clark, Clayton, Coleman, Collins, Concannon, Curtis, Day, Delperdang, Dodson, M., Eplee, Fairchild, Featherston, Finney, Garber, Gartner, Haswood, Hawkins, Helgerson, Henderson, Highberger, Hoheisel, Houser, Hoye, S. Johnson, T. Johnson, Kelly, Kessler, Kuether, Long, Lynn, Miller, Murphy, Neelly, Neighbor, Newland, Ohaebosim, Ousley, Parker, Poetter, Poskin, Probst, Proehl, Resman, Ruiz, L., Ruiz, S., Ryckman, Sanders, Sawyer, Schreiber, Seiwert, Stogsdill, Sutton, Thomas, Thompson, Vaughn, Victors, Waymaster, Weigel, K. Williams, Winn, Wolfe Moore, Woodard, Xu.

Nays: Amberger, Bergquist, Blex, Burris, Corbet, Croft, Donohoe, Ellis, Esau, Estes, Finch, Francis, French, Helmer, Highland, Hoffman, Howe, Humphries, Jacobs, Jennings, Landwehr, Lee-Hahn, Mason, Minnix, Moser, Orr, Owens, F. Patton, Penn, Proctor, Rahjes, Ralph, Rhiley, Smith, A., Smith, C., Smith, E., Tarwater, Toplikar, Turner, Waggoner, Wasinger, Wheeler.

Present but not voting: None.
Absent or not voting: Awerkamp, Howard, Huebert, Samsel.
The substitute bill passed, as amended.

EXPLANATIONS OF VOTE

Mr. Speaker: We vote no on H Sub for SB 158. Marijuana is listed as a Schedule One drug by the U.S. Drug Enforcement Administration and is therefore illegal to possess, sell, and manufacture.

There's reason to believe that Marijuana has medical benefits. However, as with other drugs, benefits can only be determined by rigorous testing by the FDA to determine what maladies for which it's medically beneficial and those maladies for which it's not beneficial and what are the side effects, both dangerous and tolerable. In addition, Medical Marijuana should be prescribed only by a licensed medical doctor and dispensed only by a licensed pharmacist. Until that is possible, and until Medical Marijuana is de-scheduled, we vote no. – SUSAN HUMPHRIES, JOHN WHEELER, JR., J. RUSSELL JENNINGS, BARBARA WASINGER, RONALD HIGHLAND, BILL RHILEY, LISA MOSER, BRENDA LANDWEHR

MR. SPEAKER: I have deep compassion for those Kansans who suffer from conditions that might be positively affected by marijuana use. Today we rejected a viable alternative that would have allowed us to help those Kansans get the relief they need.

This bill does much more than help those Kansans get relief. It creates the infrastructure for recreational marijuana. That's why this bill – rather than the alternative amendment we heard today – is backed by the marijuana industry. I have seen first-hand the tragic impacts of legalization in Colorado and I will not be a party to visiting that disaster on Kansas. For that reason, I vote no on **House Sub for SB 158**. – PAT PROCTOR, RON ELLIS, TREVOR JACOBS, CHARLOTTE ESAU

MR. SPEAKER: As a Representative, I have fought for expanded Substance Use Treatment. As a matter of fact, this body just voted unanimously to expand those treatment options just yesterday. So today, I choose our children. Where does addiction begin? What does it look like? Where does it lead? For one man, Chris Herron a former NBA player who I had the pleasure to meet last Tuesday, it started with alcohol and marijuana and ended in a Heroin addiction and four near-death experiences. Many don't make it like he did. I believe our first obligation is to our children, to our future. I do NOT believe this will lead to a better Kansas! I vote No on **H Sub for SB 158**. – STEPHEN OWENS

MR. SPEAKER: **House Sub for SB 158** is a defeat for Kansas. It is a defeat for science, for taxpayers, for Kansas families and for the Republican party. We could have had a bill that was genuinely cautious, genuinely compassionate, scientific and genuinely conservative in intent and effect. Instead we have done the bidding of the marijuana industry and their lobbyists. God bless the Kansas Senate when they kill this monstrosity. – PAUL WAGGONER

MR. SPEAKER: I am voting no on **H Sub SB 158** as I will continue to vote against the introduction of marijuana into our state. The marijuana carrot is so enticing with promises of endless money for the state and increased health for its citizens. But, the

stick that comes with it will destroy all those gains as well as our state. It may eventually come to Kansas but not with my vote. – DAVID W. FRENCH, CHARLES E. SMITH

MR. SPEAKER: I vote no on **House Sub for SB 158**. I believe in Liberty. I believe in the right of people making decisions for their own health. However, if this bill truly had medical intent with stringent regulation, I would have voted for it. Unfortunately, we rejected multiple amendments that would have given regulation. This revealed the actual intent of the sponsors of this legislation which is to set up the framework for recreational drug use. – TATUM LEE-HAHN

MR. SPEAKER: With growing scientific research relating to medical cannabis and its therapeutic benefits to individuals with chronic illnesses, I vote affirmative for Kansans that suffer without adequate or safe pharmaceutical alternatives such as highly addictive opioids. Legislative safeguards include requiring a six-month doctor-patient relationship, regulations through the Board of Healing Arts, controlled and approved advertising, and prescription monitoring through current KTRAC System. Though I cannot support legalization of recreational marijuana – I must support solutions that improve the quality of life for those suffering from debilitating illnesses. For these reasons, Mr. Speaker, I vote in favor of **H Sub for SB 158**. – KRISTEY WILLIAMS

HB 2056, AN ACT concerning food products; relating to the Kansas food, drug and cosmetic act; regulating the sale and distribution of kratom products; amending K.S.A. 65-656 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 97; Nays 24; Present but not voting: 0; Absent or not voting: 4.

Yeas: Alcalá, Amyx, Anderson, Arnberger, Baker, Ballard, Barker, Bergkamp, Bergquist, Bishop, Borjon, Burroughs, Byers, Carlin, Carlson, Carmichael, B. Carpenter, W. Carpenter, Clark, Clayton, Coleman, Concannon, Corbet, Croft, Curtis, Day, Delperdang, Dodson, M., Donohoe, Ellis, Eplee, Esau, Estes, Featherston, Finney, Francis, French, Gartner, Haswood, Hawkins, Helgerson, Henderson, Highberger, Hoffman, Hoheisel, Houser, Hoyer, Humphries, Jennings, S. Johnson, T. Johnson, Kelly, Kuether, Landwehr, Long, Lynn, Miller, Minnix, Moser, Neely, Neighbor, Newland, Ohaebosim, Orr, Ousley, Owens, Parker, F. Patton, Penn, Poskin, Probst, Proehl, Ralph, Resman, Ruiz, L., Ruiz, S., Ryckman, Sanders, Sawyer, Schreiber, Seiwert, Smith, C., Smith, E., Stogsdill, Thompson, Vaughn, Victors, Waggoner, Wasinger, Waymaster, Weigel, Wheeler, K. Williams, Winn, Wolfe Moore, Woodard, Xu.

Nays: Blex, Burris, Collins, Fairchild, Finch, Garber, Helmer, Highland, Howe, Jacobs, Kessler, Lee-Hahn, Mason, Murphy, Poetter, Proctor, Rahjes, Rhiley, Smith, A., Sutton, Tarwater, Thomas, Toplikar, Turner.

Present but not voting: None.

Absent or not voting: Awerkamp, Howard, Huebert, Samsel.

The bill passed.

REPORT ON ENGROSSED BILLS

HB 2026, HB 2187 reported correctly engrossed May 5, 2021.

HB 2077 reported correctly re-engrossed May 5, 2021.

HB 2079, HB 2121 reported correctly re-engrossed May 6, 2021.

REPORT ON ENROLLED RESOLUTIONS

HR 6014, HR 6016 reported correctly enrolled and properly signed on May 6, 2021.

On motion of Rep. Hawkins, the House adjourned until 10:00 a.m., Friday, May 7, 2021.

JENNY HAUGH, JULIA WERNER, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

