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Erica Haas
Principal Research Analyst
785-296-3181
Erica.Haas@klrd.ks.gov

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State Government

Q-4 Legalization of Medical and Recreational Marijuana

Although the use of medical or recreational marijuana is not legal in Kansas, several bills recently have been introduced to change the law. Medical marijuana use is legal in several states, and recreational use of marijuana is legal in four states. This article summarizes the bills that have been introduced in Kansas and provides an overview on the legalization and decriminalization that has occurred in other states.

Medical Use of Marijuana

History of Legislation in Kansas

In the last 11 years, 9 bills were introduced in the Kansas Legislature addressing the topic of medical marijuana. None of the bills were recommended for passage; however, during the 2015 Legislative Session, HB 2282 advanced out of its original committee and its contents passed the House Committee of the Whole as an amendment to HB 2049. HB 2282, as amended, would allow use of medical hemp preparations to treat or alleviate a patient's condition causing seizures, including those characteristic of epilepsy. The bill was withdrawn from General Orders in the House of Representatives and referred to the House Committee on Appropriations, where it remains. HB 2049 would amend the penalties for possession of marijuana so that a first offense would be a class B nonperson misdemeanor, a second offense would be a class A nonperson misdemeanor, and a third or subsequent offense would be a drug severity level 5 felony. Under current law, a first offense is a class A nonperson misdemeanor and any subsequent offense is a drug severity level 5 felony. The bill was referred to the Senate Committee on Corrections and Juvenile Justice at the end of the 2015 Legislative Session.

In 2010, HB 2610 would have allowed for the creation of not-for-profit Compassionate Care Centers and for these facilities to issue registration certificates, registry identification cards, and marijuana to patients. The bill would have allowed patients and caregivers to possess certain amounts of marijuana plants, usable marijuana, and seedlings of unusable marijuana. Also, the bill would have provided patients and caregivers with certain levels of immunity from arrest, prosecution, or other civil penalties. Finally, the bill would have prohibited discrimination against patients from schools, landlords, employers, and other entities.

Slight variations of 2010 HB 2610 were introduced in 2011 (HB 2330), 2012 (SB 354), 2013 (HB 2198 and SB 9), and 2015 (HB 2011 and SB 9).

In 2008, SB 556 would have authorized physicians to issue written certifications to patients to allow for the use of marijuana or tetrahydrocannabinol (THC) for certain debilitating medical conditions. The bill would have provided doctors with immunity from criminal and civil liability for issuing certificates and would have created a defense to patients for possession of marijuana, THC, or drug paraphernalia to aid in the use of such substances.

Other States

The District of Columbia and 23 states have laws legalizing medical marijuana and cannabis programs. The laws in these states meet the following criteria: protection from criminal penalties for using marijuana for a medical purpose; access to marijuana through home cultivation, dispensaries, or some other system that is likely to be implemented; allowance for a variety of strains; and allowance of either smoking or vaporization of marijuana products, plant material, or extract.

Another 11 states allow use of low THC, high cannabidiol products for specific medical conditions or as a legal defense. Both Missouri and Iowa enacted laws in 2014 to allow cannabidiol oil to be prescribed to individuals who suffer from intractable epilepsy, a seizure disorder in which a patient's seizures fail to come under control with treatment.

Recreational Use of Marijuana

Other States

The District of Columbia and four states (Alaska, Colorado, Oregon, and Washington) have legalized the recreational use of marijuana as of October 2015. Twenty-one states introduced legislation in

2015 to advance or allow the use of recreational marijuana for adults.

The District of Columbia and 20 states have decriminalized the use of small amounts of marijuana. Additional decriminalization efforts were introduced in 17 states in 2015.

In addition to legalization and decriminalization, efforts to reform sentencing laws related to marijuana were introduced in 21 states in 2015. Utah, Wyoming, North Dakota, Louisiana, and Texas passed sentencing reforms in 2015. Most of these reforms have resulted in graduated penalties based on the amount of marijuana possessed and the number of convictions.

Wichita City Ordinance

In April 2015, Wichita passed an ordinance during the general election that lessened the penalty for first-time marijuana possession. The new ordinance would impose up to a \$50 fine for first-time possession of a small amount of marijuana. After the election, Kansas Attorney General Derek Schmidt filed a lawsuit against the City of Wichita seeking to have the ordinance declared null and void.

On May 13, 2015, the Kansas Supreme Court ordered the City of Wichita not to enforce the marijuana ordinance until the Court could issue a ruling on its validity. The ordinance conflicts with state law, where marijuana possession is a misdemeanor punishable by up to a year in jail and a \$2,500 fine.

The Kansas Supreme Court heard oral arguments on September 17, 2015. As of October 2015, the Court has not issued a ruling on the case.

For more information, please contact:

Erica Haas, Principal Research Analyst
Erica.Haas@klrd.ks.gov

Natalie Nelson, Research Analyst
Natalie.Nelson@klrd.ks.gov

Iraida Orr, Principal Research Analyst
Iraida.Orr@klrd.ks.gov

Kansas Legislative Research Department
300 SW 10th Ave., Room 68-West, Statehouse
Topeka, KS 66612
Phone: (785) 296-3181
Fax: (785) 296-3824