

**HOUSE BILL No. 2244**

By Committee on Judiciary

2-12

1 AN ACT concerning health and healthcare; relating to the use of  
2 cannabidiol with 5% tetrahydrocannabinol to treat certain medical  
3 conditions; protection from prosecution for authorized use; amending  
4 K.S.A. 2018 Supp. 21-5706 and repealing the existing section.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) This section shall be known and may be cited as  
8 Claire and Lola's law.

9 (b) As used in this section:

10 (1) "Cannabidiol treatment preparation" means an oil including  
11 cannabidiol (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-2-  
12 cyclohexen-1-yl]-5-pentyl-1,3-benzenediol)) and tetrahydrocannabinol, as  
13 described in K.S.A. 65-4105, and amendments thereto, and having a delta-  
14 9-tetrahydrocannabinol concentration of no more than 5% that has been  
15 tested by a third-party, independent laboratory.

16 (2) "Debilitating medical condition" means a chronic or debilitating  
17 disease or medical condition, including one that produces seizures, for  
18 which the patient is under treatment by a licensed physician.

19 (3) "Delta-9-tetrahydrocannabinol concentration" means the  
20 combined percentage of delta-9-tetrahydrocannabinol and its optical  
21 isomers, their salts and acids and salts of their acids, of any part of the  
22 plant cannabis sativa L., reported as free tetrahydrocannabinol on a dry  
23 weight basis.

24 (4) "Third-party, independent laboratory" means an organization or  
25 company that tests products according to agreed requirements and that is  
26 not affiliated with the producer of the item being tested.

27 (c) It shall be an affirmative defense to any prosecution under K.S.A.  
28 2018 Supp. 21-5706, and amendments thereto, arising out of a person's  
29 possession of any cannabidiol treatment preparation that:

30 (1) The defendant has a debilitating medical condition and the  
31 cannabidiol treatment preparation is being used by the defendant to treat  
32 such debilitating medical condition; or

33 (2) the defendant is the parent or guardian of a minor child who has a  
34 debilitating medical condition, and the cannabidiol treatment preparation is  
35 being used to treat such debilitating medical condition.

36 (d) No agency of this state or political subdivision thereof shall

1 initiate proceedings to remove a child from the home of the child's parent  
2 or guardian or initiate any child protection action or proceeding based  
3 solely upon the parent's or the child's possession or use of cannabidiol  
4 treatment preparation pursuant to this section.

5 (e) Nothing in this section shall be construed to require the Kansas  
6 medical assistance program or any individual or group health insurance  
7 policy, medical service plan, contract, hospital service corporation  
8 contract, hospital and medical corporation contract, fraternal benefit  
9 society or health maintenance organization that provides coverage for  
10 accident and health services and that is delivered, issued for delivery,  
11 amended or renewed on or after July 1, 2019, to provide payment or  
12 reimbursement for any cannabidiol treatment preparation.

13 (f) Nothing in this section shall be construed to allow the possession,  
14 sale, production, redistribution or use of any other form of cannabis other  
15 than as expressly allowed in this section.

16 Sec. 2. K.S.A. 2018 Supp. 21-5706 is hereby amended to read as  
17 follows: 21-5706. (a) It shall be unlawful for any person to possess any  
18 opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-  
19 4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled  
20 substance analog thereof.

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

23 (1) Any depressant designated in K.S.A. 65-4105(e), ~~K.S.A. 65-~~  
24 ~~4107(e), K.S.A. 65-4109(b) or (c) or K.S.A. 65-4111(b), and amendments~~  
25 ~~thereto;~~

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

28 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), ~~K.S.A.~~  
29 ~~65-4107(g) or K.S.A. 65-4109(g), and amendments thereto;~~

30 (4) any substance designated in K.S.A. 65-4105(g) and ~~K.S.A. 65-~~  
31 ~~4111(c), (d), (e), (f) or (g), and amendments thereto;~~

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

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

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

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

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

40 (A) Violation of subsection (b) is a class A nonperson misdemeanor,  
41 except as provided in subsection (c)(2)(B); and

42 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug  
43 severity level 5 felony if that person has a prior conviction under such

1 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially  
2 similar offense from another jurisdiction, or under any city ordinance or  
3 county resolution for a substantially similar offense if the substance  
4 involved was 3, 4-methylenedioxyamphetamine (MDMA), marijuana  
5 as designated in K.S.A. 65-4105(d), and amendments thereto, or any  
6 substance designated in K.S.A. 65-4105(h), and amendments thereto, or an  
7 analog thereof.

8 (3) If the substance involved is marijuana, as designated in K.S.A.  
9 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as  
10 designated in K.S.A. 65-4105(h), and amendments thereto, violation of  
11 subsection (b) is a:

12 (A) Class B nonperson misdemeanor, except as provided in  
13 *subparagraphs (e)(3)(B) and (e)(3)(C)*;

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

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

24 (d) *It shall be an affirmative defense to any prosecution under K.S.A.*  
25 *2018 Supp. 21-5706, and amendments thereto, arising out of a person's*  
26 *possession of any cannabidiol treatment preparation that:*

27 (1) *The defendant has a debilitating medical condition and the*  
28 *cannabidiol treatment preparation is being used by the defendant to treat*  
29 *such debilitating medical condition; or*

30 (2) *the defendant is the parent or guardian of a minor child who has*  
31 *a debilitating medical condition, and the cannabidiol treatment*  
32 *preparation is being used to treat the minor child's debilitating medical*  
33 *condition.*

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

38 Sec. 3. K.S.A. 2018 Supp. 21-5706 is hereby repealed.

39 Sec. 4. This act shall take effect and be in force from and after its  
40 publication in the statute book.