

To the Chairman and members of the committee:

I am Timothy Tarkelly, the Legislative Director for the Libertarian Party of Kansas, and I am submitting this testimony in opposition to SB 414, a bill increasing the criminal penalties for unlawful distribution of fentanyl-related controlled substances. We oppose this bill as it extends beyond its stated purpose and is dangerously vague.

This bill is allegedly dedicated to policing “fentanyl-related controlled substances.” However, this bill seeks authority far beyond its title. According to the proposed changes made by this committee, “450 grams or more of material containing any quantity of marijuana” is to be considered fentanyl-related. For the sake of clarity, this is not criminalizing 450 grams or more of marijuana, but of any material that contains any amount. It would be unproductive to speculate as to the intent behind such a description, but when considering how wide this could be applied, possibilities abound. As states across the nation are making the move toward the decriminalization and legalization of marijuana, this body is using this bill to tighten the law’s authority over marijuana users. If this is the goal of this body, a bill should be written clearly to this purpose, rather than tucked into a bill with a misleading title. Debate about such matters should take place in the open. There are many citizens on various sides of this issue who would be denied a chance to offer testimony as they may be unaware this issue is up for debate.

Furthermore, the bill is vaguely written. Vagueness in a statute is dangerous as it could allow for needless and excessive prosecutions¹. The language in this bill offers law enforcement too much wiggle room, as arresting officers would be free to construe the definition of “material” that includes “any quantity of marijuana.” Once again, the imagination offers too many scenarios in which these words can be misinterpreted and law enforcement officers could feel compelled to understand these terms too broadly.

We hope the committee will consider these points as you make your decisions. These issues deserve public debate and attention, and our laws should clearly reflect our intentions. They should be named as such, and their language should be clear and focused.

Thank you for your time,

Timothy Tarkelly
Legislative Director, Libertarian Party of Kansas

¹ Legal Information Institute, VAGUENESS DOCTRINE, Cornell Law School. Accessed at https://www.law.cornell.edu/wex/vagueness_doctrine.