

{As Amended by House Committee of the Whole}

Session of 2017

HOUSE BILL No. 2182

By Committee on Commerce, Labor and Economic Development

1-26

1 AN ACT concerning economic development; relating to agribusiness
2 development of an industrial hemp industry; enacting the Kansas
3 agricultural industry growth act; amending K.S.A. 2016 Supp. 21-5702
4 and repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. Sections 1 through 9, and amendments thereto, shall
8 be known and may be cited as the Kansas agricultural industry growth act.
9 The purpose of the act is to authorize and encourage, in accordance with
10 **{section 7606 of the agricultural act of 2014, 7 U.S.C. § 5940, and**
11 **other}** federal law, research activities, business development and support
12 activities, public-private cooperation and educational activities toward the
13 growth of an industrial hemp cultivating, processing or distributing
14 industry in Kansas. This effort shall include, but not be limited to,
15 developing a value-added industrial hemp industry in this state such as the
16 use of oilseed or of plant stalks to produce high-grade food and beauty
17 products, fiber and cellulose for automotive parts, building products, fuel
18 or other industrial hemp products and the development or
19 commercialization of additional or improved Kansas products and markets
20 for Kansas-grown or Kansas-made products. The intent of this act is to
21 accomplish this purpose through the efforts of Kansas farmers and others
22 engaged in agribusiness in this state and the expertise of the Kansas
23 department of agriculture and Kansas institutions of higher education.
24 **{The secretary of agriculture is directed to implement the provisions**
25 **of this act as an agricultural pilot program, as defined in section 7606**
26 **of the agricultural act of 2014, 7 U.S.C. § 5940, and to encourage and**
27 **facilitate research in accordance with this act.}**

28 New Sec. 2. As used in sections 1 through 9, and amendments
29 thereto:

- 30 (a) "Act" means the Kansas agricultural industry growth act.
31 (b) "Secretary" means the secretary of agriculture, or the secretary's
32 designee or authorized agent.
33 (c) "Department" means the Kansas department of agriculture.
34 (d) "Distribute" means to offer for sale, sell, exchange or barter
35 industrial hemp.
36 (e) "Grower" means any person engaged in the growing or cultivating

1 of industrial hemp.

2 (f) "Industrial hemp" means the plants and all plant parts of the
3 genera cannabis that do not contain a delta-9 tetrahydrocannabinol
4 concentration more than 0.3% on a dry mass basis, grown from seed
5 certified by a certifying agency, as defined by K.S.A. 2-1415, and
6 amendments thereto, for growing industrial hemp.

7 (g) "Industrial hemp products" means all products made from
8 industrial hemp, including, but not limited to, cloth, cordage, fiber, food,
9 fuel, paint, paper, particleboard, plastics, seed, seed-~~metal~~ {meal} and seed
10 oil for consumption and seed for cultivation if the seeds originate from
11 industrial hemp varieties and are certified by a certifying agency, as
12 defined by K.S.A. 2-1415, and amendments thereto, for growing industrial
13 hemp.

14 (h) "Person" includes an individual, partnership, corporation,
15 association or other legal entity and institutions of higher education.

16 (i) "Process" means to perform one or more mechanical or chemical
17 operations on industrial hemp in order to change or preserve the industrial
18 hemp.

19 (j) "Higher educational institution" means:

20 (A) A state educational institution as defined in K.S.A. 76-711, and
21 amendments thereto, a municipal university or community college
22 established and operating under the laws of this state or any not-for-profit
23 independent institution of higher education which is accredited by the
24 north central association of colleges and secondary schools accrediting
25 agency as of July 1, 2017, is operated independently and not controlled or
26 administered by the state or any agency or subdivision thereof, maintains
27 open enrollment and the main campus or principal place of operation of
28 which is located in Kansas; and

29 (B) that offers a baccalaureate or post-graduate level program of
30 study in agricultural sciences.

31 (k) "Tetrahydrocannabinol" means the natural or synthetic equivalents
32 of the substances contained in the plant or in the resinous extractives of
33 cannabis or any synthetic substances, compounds, salts or derivatives of
34 the plant or chemicals and their isomers with similar chemical structure
35 and pharmacological activity.

36 (l) "Research" means all types of industrial hemp-related agronomy
37 research and analysis, seed research and seed or varietal improvement,
38 development or commercialization of industrial hemp products, analysis of
39 opportunities for value-added functions or industries based on industrial
40 hemp in Kansas or any other research directly related to industrial hemp or
41 the development or support of an industrial hemp industry in Kansas that
42 would further the purposes of the act.

43 New Sec. 3. (a) Any person who processes raw industrial hemp

1 within this state, or who distributes industrial hemp in or into this state,
2 shall annually obtain a license from the department for each facility at
3 which industrial hemp is processed in this state, or from which industrial
4 hemp is distributed in or into this state, authorizing the person to process
5 or distribute industrial hemp before engaging in the activity. Any person
6 who makes only retail sales of industrial hemp obtained from a licensed
7 processor or distributor is not required to obtain a license. A processor or
8 distributor licensed under this subsection shall agree that the department
9 has the right to inspect its facilities and any industrial hemp in its
10 possession for compliance with the provisions of this act and the rules and
11 regulations of the department.

12 (b) The department shall oversee and annually license any grower
13 who wishes to produce industrial hemp. Any person who cultivates an
14 industrial hemp crop of any size shall obtain a license from the department
15 authorizing the person to cultivate industrial hemp before engaging in the
16 activity. In order to obtain an industrial hemp license, the grower shall
17 agree that the department has the right to inspect the hemp crop for
18 compliance with the provisions of this act and the rules and regulations of
19 the department.

20 (c) Any person who is required to obtain a license under this section
21 shall submit an application on a form approved by the secretary,
22 accompanied by payment of a fee in the amount established by the
23 secretary. Each license shall expire one calendar year from the date on
24 which it is issued and may be renewed in successive years. The secretary
25 may, and shall for good cause shown, extend the license for a period
26 sufficient for the licensee to obtain a license renewal, except that the
27 extension of time shall not exceed three months. The form and content of
28 industrial hemp license applications required by this section and the
29 application process and information required shall be established by rules
30 and regulations adopted by the secretary in accordance with applicable
31 federal law. **{The secretary shall provide copies of all licenses issued to
32 the Kansas bureau of investigation and to city or county law
33 enforcement agencies with jurisdiction for the location of the licensee's
34 address or the location where industrial hemp is processed, grown or
35 cultivated and shall provide the location where such activities are
36 licensed to occur. The secretary shall immediately notify the Kansas
37 bureau of investigation and the city or county law enforcement agency
38 with jurisdiction for the location of the licensee's address or the
39 location where the industrial hemp is processed, grown or cultivated
40 of any revocation or expiration of the licensee's license.}**

41 (d) In order to ensure public health and safety and compliance with
42 applicable federal law, the secretary is authorized to adopt rules and
43 regulations governing qualifications for licensure under this section. The

1 secretary shall adopt rules and regulations establishing reasonable fees for
2 licenses, license renewals, permits or other necessary expenses to defray
3 the cost of implementing and operating the industrial hemp program in this
4 state on an ongoing basis.

5 (e) The department shall refuse to issue a license to any person not in
6 compliance with the provisions of the Kansas agricultural industry growth
7 act or rules and regulations adopted by the secretary and to cancel the
8 license of any licensee subsequently found not to be in compliance, except
9 that no license shall be refused or canceled unless the applicant or licensee
10 has been given an opportunity to be heard before the secretary and to
11 amend the applicant's or licensee's application in order to comply with the
12 requirements of the act or the rules and regulations.

13 (f) The secretary is authorized to apply for, and the court to grant, a
14 temporary or permanent injunction restraining any person from violating
15 or continuing to violate any of the provisions of the Kansas agricultural
16 industry growth act or any rule or regulation adopted by the secretary
17 under the act, notwithstanding the existence of other remedies at law. The
18 injunction is to be issued without bond.

19 (g) If a grower, distributor or processor does not hold a current
20 license or an extension granted by the department pursuant to this section
21 and a crop, plant parts, seeds or raw hemp in the grower, distributor or
22 processor's possession contains, as determined by sampling tested by an
23 independent laboratory selected by the department, a delta-9
24 tetrahydrocannabinol concentration equal to or less than 0.3% on a dry
25 mass basis, the industrial hemp crop, industrial hemp plant parts, seeds or
26 raw industrial hemp shall be subject to civil seizure and sale or destruction
27 by the department.

28 (h) Any person adversely affected by the act, or an order or ruling
29 made by the secretary pursuant to the act, may seek judicial review under
30 the provisions of the Kansas judicial review act.

31 New Sec. 4. (a) There is hereby created in the state treasury the
32 agricultural industry growth program fund, to be administered by the
33 secretary.

34 (b) All revenue from fees or other revenue collected pursuant to rules
35 and regulations adopted by the secretary under the act or from public or
36 private sources for the industrial hemp program shall be used exclusively
37 for the administration and regulation of industrial hemp and the Kansas
38 agricultural industry growth act or to otherwise directly further the
39 purposes of the act. The secretary shall remit all such moneys received by
40 the secretary to the state treasurer in accordance with the provisions of
41 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
42 remittance, the state treasurer shall deposit the entire amount in the state
43 treasury to the credit of the agricultural industry growth program fund. All

1 expenditures from the fund shall be made in accordance with appropriation
2 acts upon warrants of the director of accounts and reports issued pursuant
3 to vouchers approved by the secretary or by a person or persons designated
4 by the secretary.

5 (c) On or before the 10th of each month, the director of accounts and
6 reports shall transfer from the state general fund to the agricultural
7 industry growth program fund interest earnings based on:

8 (1) The average daily balance of moneys in the agricultural industry
9 growth program fund for the preceding month; and

10 (2) the net earnings rate for the pooled money investment portfolio
11 for the preceding month.

12 New Sec. 5. To the extent permitted by federal law, any higher
13 education institution in this state that offers a baccalaureate or post-
14 graduate level program of study in agricultural sciences is authorized to
15 acquire, possess, cultivate and test seeds, plants and plant parts of the
16 genera cannabis for the purpose of developing and reproducing seeds that
17 may be certified under the Kansas seed law, article 14 of chapter 2 of the
18 Kansas Statutes Annotated, and amendments thereto, by a certifying
19 agency as defined by K.S.A. 2-1415, and amendments thereto, for growing
20 industrial hemp, or for industrial hemp-related research purposes as
21 defined in section 2, and amendments thereto.

22 New Sec. 6. The secretary is authorized to cooperate with and enter
23 into agreements with governmental agencies of this state or other states,
24 agencies of the federal government, institutions of higher education in this
25 state or other states and private associations in order to carry out the
26 purpose or provisions of the Kansas agricultural industry growth act. The
27 department is authorized to seek public or private funding from any
28 federal, public or private source to further the purposes of the act.

29 New Sec. 7. Any person convicted of violating any of the provisions
30 of the Kansas agricultural industry growth act or who impedes, hinders or
31 otherwise prevents, or attempts to prevent, the secretary or an employee or
32 agent of the department in performance of that official's duty in connection
33 with the act commits a Class C misdemeanor.

34 New Sec. 8. The secretary is authorized to adopt rules and regulations
35 that are necessary for the efficient administration, oversight and
36 enforcement of the Kansas agricultural industry growth act. To the extent
37 permitted by federal law, the secretary shall include as part of the rules and
38 regulations, rules and regulations for the certification of seeds for
39 industrial hemp.

40 New Sec. 9. (a) Nothing in the Kansas agricultural industry growth
41 act shall be construed to authorize the development of or research relative
42 to any strain or variety of cannabis other than industrial hemp, as defined
43 by section 2, and amendments thereto, or to authorize any violation of

1 federal law by any person. For purposes of state law, industrial hemp as
2 defined in section 2, and amendments thereto, shall not be considered a
3 controlled substance or marijuana as defined by state law.

4 (b) Possession of hemp crop, plant parts, seeds or raw hemp by a
5 grower, distributor or processor or by an institution of higher learning in
6 compliance with section 5, and amendments thereto, containing a delta-9
7 tetrahydrocannabinol concentration more than 0.3% on a dry mass basis
8 shall not be considered a controlled substance or marijuana as defined by
9 state law for the purpose of criminal prosecution if:

10 (1) The grower, distributor or processor holds a current license or an
11 extension granted by the department and the crop, plant parts, seeds or raw
12 hemp:

13 (A) Have been produced from certified industrial hemp seed;

14 (B) are certified seeds or are possessed with the intent of obtaining
15 seed certification or to develop seeds for certification for industrial hemp;
16 or

17 (C) were acquired from a licensed grower, distributor or processor
18 holding out the crop, plant parts, seeds or raw hemp as industrial hemp and
19 the grower, distributor or processor possessing the crop, plant parts, seeds
20 or raw hemp does not know or have reason to know that the crop, plant
21 parts, seeds or raw hemp is not industrial hemp as defined in section 2, and
22 amendments thereto; or

23 (2) the crop, plant parts, seed or raw hemp are in the possession of an
24 institution of higher learning that is in compliance with the provisions of
25 section 5, and amendments thereto.

26 Sec. 10. K.S.A. 2016 Supp. 21-5702 is hereby amended to read as
27 follows: 21-5702. (a) Prosecutions for crimes committed prior to July 1,
28 2009, shall be governed by the law in effect at the time the crime was
29 committed. For purposes of this section, a crime was committed prior to
30 July 1, 2009, if any element of the crime occurred prior thereto.

31 (b) The prohibitions of this act shall apply unless the conduct
32 prohibited is authorized by the pharmacy act of the state of Kansas, the
33 uniform controlled substances act, *the Kansas agricultural industry*
34 *growth act* or otherwise authorized by law.

35 Sec. 11. K.S.A. 2016 Supp. 21-5702 is hereby repealed.

36 Sec. 12. This act shall take effect and be in force from and after its
37 publication in the statute book.