

HOUSE BILL No. 2135

By Committee on Agriculture and Natural Resources

Requested by Representative Moser, on behalf of the Kansas Department of
Agriculture

1-28

1 AN ACT concerning agriculture; relating to industrial hemp; making
2 certain provisions of the commercial industrial hemp act applicable
3 only if the Kansas department of agriculture has submitted a state plan
4 to the federal government for the state monitoring and regulation of
5 industrial hemp within Kansas and such state plan is still active;
6 removing references to the expired hemp research program; amending
7 K.S.A. 2-3903, 2-3905, 2-3908 and 2-3909 and K.S.A. 2024 Supp. 2-
8 3902, 2-3906, 2-3907 and 2-3911 and repealing the existing sections;
9 also repealing K.S.A. 2-3904.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 2024 Supp. 2-3902 is hereby amended to read as
13 follows: 2-3902. (a) *If a state plan submitted pursuant to K.S.A. 2-3906(a),*
14 *and amendments thereto, is currently active,* the Kansas department of
15 agriculture shall, by the adoption of rules and regulations, establish *and*
16 *maintain* an advisory board within the department to provide input and
17 information regarding the regulation and development of industrial hemp
18 in the state of Kansas and any programs proposed or operated by the
19 department. Such board shall include a minimum of six members,
20 including members that represent the following:

- 21 (1) The Kansas legislature;
22 (2) crop research;
23 (3) industrial hemp production or processing;
24 (4) law enforcement;
25 (5) seed certification; and
26 (6) the state entity designated to regulate hemp processors.

27 (b) *If established and maintained pursuant to subsection (a),* the state
28 advisory board shall meet at least annually. Members shall receive no
29 compensation but shall be paid subsistence allowances, mileage and other
30 expenses as provided in K.S.A. 75-3223, and amendments thereto.

31 (c) The secretary of agriculture may require a hemp employee to be
32 fingerprinted and to submit to a state and national criminal history record
33 check in accordance with K.S.A. 2024 Supp. 22-4714, and amendments
34 thereto.

1 (2) An individual who has been convicted of a felony violation of
2 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
3 thereto, or a substantially similar offense in another jurisdiction, within the
4 immediately preceding 10 years, shall be disqualified from initial or
5 continuing employment under this section.

6 (3) The individual seeking initial or continuing employment under
7 this section shall pay the costs of fingerprinting and the state and national
8 criminal history record checks.

9 Sec. 2. K.S.A. 2-3903 is hereby amended to read as follows: 2-3903.

10 (a) The commercial industrial hemp act licensing fee fund shall be
11 administered by the secretary of agriculture. All expenditures from the
12 commercial industrial hemp act licensing fee fund shall be made in
13 accordance with appropriation acts upon warrants of the director of
14 accounts and reports issued pursuant to vouchers signed by the secretary of
15 agriculture or the secretary's designee.

16 (b) *If a state plan submitted pursuant to K.S.A. 2-3906(a), and*
17 *amendments thereto, is active*, except as provided in K.S.A. 2-3907, and
18 amendments thereto, licensing and renewal fees shall be established
19 pursuant to rules and regulations adopted by the secretary under the
20 commercial industrial hemp act. The amounts received for such fees shall
21 be deposited in the state treasury in accordance with K.S.A. 75-4215, and
22 amendments thereto, and shall be credited to the commercial industrial
23 hemp act licensing fee fund.

24 Sec. 3. K.S.A. 2-3905 is hereby amended to read as follows: 2-3905.

25 (a) It is the intent of the legislature of the state of Kansas that, *if a state*
26 *plan submitted pursuant to K.S.A. 2-3906(a), and amendments thereto, is*
27 *active*, the implementation of the commercial industrial hemp act by the
28 Kansas department of agriculture shall be conducted in the least restrictive
29 manner allowed under federal law.

30 (b) This section shall be a part of and supplemental to the commercial
31 industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

32 Sec. 4. K.S.A. 2024 Supp. 2-3906 is hereby amended to read as
33 follows: 2-3906. (a) The Kansas department of agriculture; *may*:

34 (1) *Request that the United States department of agriculture*
35 *administer commercial industrial hemp production in Kansas pursuant to*
36 *the requirements of the United States department of agriculture; or*

37 (2) in consultation with the governor and attorney general, ~~shall~~
38 submit a *state plan* to the United States department of agriculture under
39 which the Kansas department of agriculture will monitor and regulate the
40 commercial production of industrial hemp within the state in accordance
41 with 7 U.S.C. § 1621 et seq. and any rules and regulations adopted
42 thereunder.

43 (b) *If a state plan is submitted pursuant to subsection (a), such plan*

1 shall include the following:

2 (1) A procedure to maintain relevant information regarding land on
3 which industrial hemp is produced, including a legal description of the
4 land, for a period of not less than three calendar years;

5 (2) a procedure for testing, using post-decarboxylation or other
6 similarly reliable methods, the delta-9 tetrahydrocannabinol concentration
7 levels of industrial hemp produced;

8 (3) a procedure for the effective disposal of industrial hemp and hemp
9 products that are found to be in violation of this act;

10 (4) any licensing requirements or other rules and regulations deemed
11 necessary by the Kansas department of agriculture for the proper
12 monitoring and regulation of industrial hemp cultivation and production
13 for commercial purposes, including, but not limited to:

14 (A) Fees for licenses, license renewals and other necessary expenses
15 to defray the cost of implementing and operating the plan on an ongoing
16 basis; and

17 (B) standards for authorized seed or clone plants;

18 (5) a procedure for the creation of documentation that any person in
19 possession of unprocessed industrial hemp may use to prove to any law
20 enforcement officer that such industrial hemp was lawfully grown under
21 this section;

22 (6) a procedure for conducting annual inspections of, at a minimum, a
23 random sample of hemp producers to verify that industrial hemp is not
24 produced in violation of this act; and

25 (7) any other procedures necessary to meet the requirements set forth
26 in 7 U.S.C. § 1621 et seq. and any rules and regulations adopted
27 thereunder.

28 (c) (1) A hemp producer who negligently violates this section or any
29 rules and regulations adopted hereunder shall not be subject to any state or
30 local criminal enforcement action, but shall comply with the following
31 corrective actions as applicable:

32 (A) A reasonable date by which the hemp producer shall correct the
33 negligent violation; and

34 (B) a requirement that the hemp producer shall periodically report to
35 the Kansas department of agriculture on the hemp producer's compliance
36 with this section and rules and regulations adopted hereunder, for a period
37 of not less than the next two calendar years.

38 (2) A hemp producer who negligently violates this section or any
39 rules and regulations adopted hereunder three times in a five-year period
40 shall be ineligible to produce industrial hemp for a period of five years
41 beginning on the date of the third violation.

42 (3) *If a state plan submitted pursuant to subsection (a) is active, the*
43 *Kansas department of agriculture shall immediately report any violation by*

1 a hemp producer with a greater culpable mental state than negligence to
2 the attorney general and such hemp producer shall not be subject to the
3 exemption in subsection (c)(1).

4 (d) *If a state plan submitted pursuant to subsection (a) is active*, any
5 individual otherwise eligible to become a licensed hemp producer shall not
6 be eligible to produce industrial hemp if such individual has submitted any
7 materially false information in any application to become a licensed hemp
8 producer.

9 (e) (1) *If a state plan submitted pursuant to subsection (a) is active*,
10 the department shall require, as a qualification for initial or continuing
11 licensure, all individuals seeking a license or license renewal as a hemp
12 producer under this section to be fingerprinted and to submit to a state and
13 national criminal history record check in accordance with K.S.A. 2024
14 Supp. 22-4714, and amendments thereto.

15 (2) *If a state plan submitted pursuant to subsection (a) is active*, an
16 individual who has been convicted of a felony violation of article 57 of
17 chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or a
18 substantially similar offense in another jurisdiction, within the
19 immediately preceding 10 years, shall be disqualified from initial or
20 continuing licensure as a hemp producer under this section.

21 (3) *If a state plan submitted pursuant to subsection (a) is active*, the
22 individual seeking a license or license renewal as a hemp producer under
23 this section shall pay the costs of fingerprinting and the state and national
24 criminal history record checks.

25 (f) *If a state plan submitted pursuant to subsection (a) is active*, the
26 secretary of agriculture shall promulgate rules and regulations to
27 implement the plan submitted to the United States department of
28 agriculture and to otherwise effectuate the provisions of this section.

29 ~~(g) Upon the repeal of 7 U.S.C. § 5940 or either the adoption of a~~
30 ~~federal plan by the United States department of agriculture that allows for~~
31 ~~the cultivation and production of industrial hemp for commercial purposes~~
32 ~~within the state or upon the adoption of rules and regulations by the~~
33 ~~Kansas secretary of agriculture that establish the cultivation and~~
34 ~~production of industrial hemp for commercial purposes within the state,~~
35 ~~the Kansas department of agriculture may discontinue the industrial hemp~~
36 ~~research program established pursuant to K.S.A. 2-3902, and amendments~~
37 ~~thereto.~~

38 ~~(h)~~ Any modification fee established by the department for any
39 requested change to a license that was previously issued by the department
40 under this section shall not exceed \$50.

41 ~~(i)~~^(h) Any licensing or other fees collected pursuant to this section
42 and any rules and regulations adopted hereunder shall be deposited in the
43 commercial industrial hemp act licensing fee fund established by K.S.A. 2-

1 3903, and amendments thereto, for all costs of the administration of the
2 commercial production of industrial hemp.

3 ~~(j)~~(i) This section shall be a part of and supplemental to the
4 commercial industrial hemp act, K.S.A. 2-3901 et seq., and amendments
5 thereto.

6 Sec. 5. K.S.A. 2024 Supp. 2-3907 is hereby amended to read as
7 follows: 2-3907. (a) The state fire marshal shall create and maintain a
8 registry of all hemp processors operating within the state of Kansas.

9 (b) Any person engaging in the processing of industrial hemp shall
10 register annually with the state fire marshal prior to processing industrial
11 hemp.

12 (c) Registration shall expire annually on June 30. Registration fees,
13 not to exceed \$1,000, shall be established pursuant to rules and regulations
14 adopted by the state fire marshal.

15 (d) Any person required to register as a hemp processor pursuant to
16 this section shall submit an annual registration application on a form
17 provided by the state fire marshal that shall include, at a minimum:

18 (1) The full legal name, date of birth, address and telephone number
19 of the applicant. If the applicant is not an individual, the same information
20 shall also be provided for all owners and the individual responsible for all
21 industrial hemp processing and related activities performed by the
22 applicant;

23 (2) the physical location of any premises that will serve as a part of
24 the applicant's industrial hemp processing operations;

25 (3) a brief description of the industrial hemp processing methods,
26 activities and products planned for production; and

27 (4) certification that such applicant has fully complied with the
28 fingerprinting and criminal history record check requirements contained in
29 this section, if applicable. Any such applicant who provides a false
30 statement of compliance with such requirements shall be guilty of a class
31 C nonperson misdemeanor.

32 (e) The state fire marshal shall provide an updated list of all hemp
33 processors to the Kansas bureau of investigation and to the county sheriff
34 in each county where a hemp processor is located as often as is reasonably
35 required or requested.

36 (f) Fees collected pursuant to this section shall be remitted to the state
37 treasurer in accordance with the provisions of K.S.A. 75-4215, and
38 amendments thereto. Upon receipt of each such remittance, the state
39 treasurer shall deposit the entire amount in the state treasury to the credit
40 of the fire marshal fee fund.

41 (g) It shall be unlawful for any person to operate as a hemp processor
42 without valid registration. Upon a first conviction for a violation of this
43 subsection, a person shall be guilty of a class A nonperson misdemeanor.

1 On a second or subsequent conviction for a violation of this subsection, a
2 person shall be guilty of a severity level 9, nonperson felony.

3 (h) (1) The state fire marshal shall require all individuals applying for
4 a hemp processor registration who seek to engage in the extraction of
5 cannabinoids from industrial hemp, including the disposal of such
6 cannabinoids, pursuant to the commercial industrial hemp act to be
7 fingerprinted and submit to a state and national criminal history record
8 check in accordance with K.S.A. 2024 Supp. 22-4714, and amendments
9 thereto.

10 (2) An individual who has been convicted of a felony violation of
11 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
12 thereto, or a substantially similar offense in another jurisdiction, within the
13 immediately preceding 10 years, shall be disqualified from processing
14 industrial hemp under this section.

15 (3) The state fire marshal may deny registration to any individual
16 who has violated subsection (g) or any other provision of the commercial
17 industrial hemp act.

18 (4) The individual seeking authorization to extract or dispose of
19 cannabinoids from industrial hemp pursuant to this section shall pay the
20 costs of fingerprinting and the state and national criminal history record
21 check.

22 (i) (1) The state fire marshal shall promulgate rules and regulations to
23 carry out the provisions of this section, including, but not limited to, rules
24 and regulations on:

25 (A) The denial, conditioning, renewal or revocation of registration;

26 (B) the creation of multiple classes of registrations based upon the
27 scope of hemp processing activities of an applicant;

28 (C) construction and safety standards for processing facilities;

29 (D) security measures;

30 (E) inventory control;

31 (F) maintenance of records;

32 (G) access to and inspection of records and processing facilities by
33 the state fire marshal and law enforcement agencies;

34 (H) the collection and disposal of any cannabinoids extracted during
35 the processing of industrial hemp that cannot be lawfully sold in this state;
36 and

37 (I) the transportation of industrial hemp or hemp products.

38 (2) The state fire marshal may grant an exemption from the
39 application of a specific requirement of rules and regulations promulgated
40 under paragraph (1), unless the state fire marshal determines that the
41 condition, structure or activity that is or would be in noncompliance with
42 such requirement would constitute a distinct hazard to life or property. Any
43 such exemption shall be granted only upon written request of a registrant

1 or applicant for registration that clearly demonstrates that enforcement of a
2 specific requirement of a rule and regulation will cause unnecessary
3 hardship as determined by the state fire marshal.

4 (j) *If a state plan submitted pursuant to K.S.A. 2-3906(a), and*
5 *amendments thereto, is active,* the Kansas department of agriculture and
6 the state fire marshal shall coordinate with one another, including
7 providing any requested information from the other, regarding industrial
8 hemp licensees, hemp processors and hemp processor applicants necessary
9 for the enforcement of any laws or rules and regulations relating to
10 industrial hemp.

11 (k) This section shall be a part of and supplemental to the commercial
12 industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

13 Sec. 6. K.S.A. 2-3908 is hereby amended to read as follows: 2-3908.

14 (a) (1) It shall be unlawful for any of the following hemp products to be
15 manufactured, marketed, sold or distributed by any person in the state of
16 Kansas:

- 17 (A) Cigarettes containing industrial hemp;
- 18 (B) cigars containing industrial hemp;
- 19 (C) chew, dip or other smokeless material containing industrial hemp;
- 20 (D) teas containing industrial hemp;
- 21 (E) liquids, solids or gases containing industrial hemp for use in
22 vaporizing devices; and

23 (F) any other hemp product intended for human or animal
24 consumption containing any ingredient derived from industrial hemp that
25 is prohibited pursuant to the Kansas food, drug and cosmetic act, K.S.A.
26 65-636 et seq., and amendments thereto, and the commercial feeding stuffs
27 act, K.S.A. 2-1001 et seq., and amendments thereto. This subparagraph
28 shall not otherwise prohibit the use of any such ingredient, including
29 cannabidiol oil, in such hemp products.

30 (2) As used in this subsection:

- 31 (A) "Human or animal consumption" means:
 - 32 (i) Ingested orally; or
 - 33 (ii) applied by any means such that an ingredient derived from
34 industrial hemp enters the human or animal body.
- 35 (B) "Intended for human or animal consumption" means:
 - 36 (i) Designed by the manufacturer for human or animal consumption;
 - 37 (ii) marketed for human or animal consumption; or
 - 38 (iii) distributed with the intent that it be used for human or animal
39 consumption.

40 (b) (1) It shall be unlawful for any of the following hemp products to
41 be marketed, sold or distributed to any person in Kansas who is not
42 registered as a hemp processor pursuant to K.S.A. 2-3907, and
43 amendments thereto, or who does not possess, *as applicable*, a license

1 *issued by either the Kansas department of agriculture or the United States*
2 *department of agriculture* under any commercial plan established pursuant
3 to K.S.A. 2-3906, and amendments thereto, ~~or the research program~~
4 ~~established pursuant to K.S.A. 2-3902, and amendments thereto:~~

5 (A) Industrial hemp buds;
6 (B) ground industrial hemp floral material;
7 (C) ground industrial hemp leaf material; or
8 (D) any extract from industrial hemp with a delta-9
9 tetrahydrocannabinol concentration greater than 0.3% that will be further
10 processed.

11 (2) No license or registration shall be required for the transport of
12 hemp products described in paragraph (1) if such products are transported
13 between hemp producers and hemp processors or between more than one
14 hemp processor. Any such transportation of hemp products shall be subject
15 to rules and regulations promulgated by the state fire marshal pursuant to
16 this act.

17 (c) (1) Upon a first conviction for a violation of this section, a person
18 shall be guilty of a class A nonperson misdemeanor.

19 (2) On a second or subsequent conviction for a violation of this
20 section, a person shall be guilty of a severity level 9, nonperson felony.

21 (d) Nothing in this section shall prohibit:

22 (1) The use of any hemp product for research purposes by a state
23 educational institution or affiliated entity; or

24 (2) the production, use or sale of any hemp product that is otherwise
25 not prohibited by state or federal law.

26 (e) This section shall be a part of and supplemental to the commercial
27 industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

28 Sec. 7. K.S.A. 2-3909 is hereby amended to read as follows: 2-3909.

29 (a) (1) All solid waste, as defined in K.S.A. 65-3402, and amendments
30 thereto, *or 42 U.S.C. § 6903, as in effect on January 1, 2025*, and all
31 hazardous waste, as defined in K.S.A. 65-3430, and amendments thereto,
32 *or 42 U.S.C. § 6903, as in effect on January 1, 2025*, resulting from the
33 cultivation, production or processing of industrial hemp under the
34 commercial industrial hemp act shall be managed in accordance with all
35 applicable solid and hazardous waste laws and regulations and the
36 requirements of subsection (a)(2) *or 42 U.S.C. §§ 6901 through 6992k, as*
37 *in effect on January 1, 2025*.

38 (2) (A) If any such waste can be used in the same manner as, or has
39 the appearance of, a controlled substance, as defined in K.S.A. 65-4101,
40 and amendments thereto, all such waste shall be rendered unusable and
41 unrecognizable before the waste is transported or disposed.

42 (B) This requirement shall not apply to waste that is managed as a
43 hazardous waste and sent to a hazardous waste facility, as defined in

1 K.S.A. 65-3430, and amendments thereto.

2 (3) For the purposes of this section, "unusable and unrecognizable"
3 means that such waste can not be used in the same manner as, and does not
4 have the appearance of, a controlled substance, as defined in K.S.A. 65-
5 4101, and amendments thereto.

6 (b) Any violation of this section shall be considered an unlawful act
7 for the purposes of K.S.A. 65-3409, and amendments thereto.

8 (c) This section shall be a part of and supplemental to the commercial
9 industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

10 Sec. 8. K.S.A. 2024 Supp. 2-3911 is hereby amended to read as
11 follows: 2-3911. (a) *If a state plan submitted pursuant to K.S.A. 2-3906(a),*
12 *and amendments thereto, is active*, whenever a person licensed under the
13 commercial industrial hemp act is required to conduct effective disposal of
14 industrial hemp pursuant to standards established by the controlled
15 substances act, 21 U.S.C. 13 et seq., or under regulations adopted by the
16 United States drug enforcement administration, the Kansas department of
17 agriculture shall notify state or local law enforcement agencies with
18 jurisdiction in the area in which the industrial hemp was grown that
19 effective disposal is required.

20 (b) *If a state plan submitted pursuant to K.S.A. 2-3906(a), and*
21 *amendments thereto, is active*, the department shall develop a plan for
22 effective disposal of industrial hemp in coordination with the state or local
23 law enforcement agency notified pursuant to subsection (a).

24 (c) (1) In order to carry out the provisions of this section, the
25 department is authorized to perform any action necessary to ensure that
26 effective disposal of industrial hemp occurs, including, but not limited to:

27 (A) Taking temporary possession of the industrial hemp;

28 (B) destroying the industrial hemp; or

29 (C) supervising and directing any appropriate method of effective
30 disposal.

31 (2) The state or local law enforcement agency shall approve in
32 advance any such action taken by the department or any person under the
33 department's direction or supervision.

34 (d) The secretary may require a hemp destruction employee to be
35 fingerprinted and to submit to a state and national criminal history record
36 check annually in accordance with K.S.A. 2024 Supp. 22-4714, and
37 amendments thereto. The secretary may use the information obtained from
38 fingerprinting and the criminal history record check to verify the identity
39 of the employee or agent and determine whether the employee or agent has
40 been convicted of a felony violation of article 57 of chapter 21 of the
41 Kansas Statutes Annotated, and amendments thereto, or a substantially
42 similar offense in another jurisdiction, within the 10 years immediately
43 preceding submission of such criminal history record check.

1 (e) The department and the appropriate state or local law enforcement
2 agency may seek reimbursement from any individual licensed under the
3 commercial industrial hemp act for any costs incurred in conducting
4 effective disposal of industrial hemp.

5 (f) The department shall have no authority to conduct effective
6 disposal for any industrial hemp or cannabis plant produced by individuals
7 not licensed under the commercial industrial hemp act.

8 (g) Nothing in this section shall limit the jurisdiction or authority of
9 state or local law enforcement to enforce article 57 of chapter 21 of the
10 Kansas Statutes Annotated, and amendments thereto.

11 (h) This section shall be a part of and supplemental to the commercial
12 industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

13 Sec. 9. K.S.A. 2-3903, 2-3904, 2-3905, 2-3908 and 2-3909 and
14 K.S.A. 2024 Supp. 2-3902, 2-3906, 2-3907 and 2-3911 are hereby
15 repealed.

16 Sec. 10. This act shall take effect and be in force from and after its
17 publication in the statute book.