

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 federal law, research activities, business development and support
11 activities, public-private cooperation and educational activities toward the
12 growth of an industrial hemp cultivating, processing or distributing
13 industry in Kansas. This effort shall include, but not be limited to,
14 developing a value-added industrial hemp industry in this state such as the
15 use of oilseed or of plant stalks to produce high-grade food and beauty
16 products, fiber and cellulose for automotive parts, building products, fuel
17 or other industrial hemp products and the development or
18 commercialization of additional or improved Kansas products and markets
19 for Kansas-grown or Kansas-made products. The intent of this act is to
20 accomplish this purpose through the efforts of Kansas farmers and others
21 engaged in agribusiness in this state and the expertise of the Kansas
22 department of agriculture and Kansas institutions of higher education.

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

- 25 (a) "Act" means the Kansas agricultural industry growth act.
26 (b) "Secretary" means the secretary of agriculture, or the secretary's
27 designee or authorized agent.
28 (c) "Department" means the Kansas department of agriculture.
29 (d) "Distribute" means to offer for sale, sell, exchange or barter
30 industrial hemp.
31 (e) "Grower" means any person engaged in the growing or cultivating
32 of industrial hemp.
33 (f) "Industrial hemp" means the plants and all plant parts of the
34 genera cannabis that do not contain a delta-9 tetrahydrocannabinol
35 concentration more than 0.3% on a dry mass basis, grown from seed
36 certified by a certifying agency, as defined by K.S.A. 2-1415, and

1 amendments thereto, for growing industrial hemp.

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

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

10 (i) "Process" means to perform one or more mechanical or chemical
11 operations on industrial hemp in order to change or preserve the industrial
12 hemp.

13 (j) "Higher educational institution" means:

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

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

25 (k) "Tetrahydrocannabinol" means the natural or synthetic equivalents
26 of the substances contained in the plant or in the resinous extractives of
27 cannabis or any synthetic substances, compounds, salts or derivatives of
28 the plant or chemicals and their isomers with similar chemical structure
29 and pharmacological activity.

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

37 New Sec. 3. (a) Any person who processes raw industrial hemp
38 within this state, or who distributes industrial hemp in or into this state,
39 shall annually obtain a license from the department for each facility at
40 which industrial hemp is processed in this state, or from which industrial
41 hemp is distributed in or into this state, authorizing the person to process
42 or distribute industrial hemp before engaging in the activity. Any person
43 who makes only retail sales of industrial hemp obtained from a licensed

1 processor or distributor is not required to obtain a license. A processor or
2 distributor licensed under this subsection shall agree that the department
3 has the right to inspect its facilities and any industrial hemp in its
4 possession for compliance with the provisions of this act and the rules and
5 regulations of the department.

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

14 (c) Any person who is required to obtain a license under this section
15 shall submit an application on a form approved by the secretary,
16 accompanied by payment of a fee in the amount established by the
17 secretary. Each license shall expire one calendar year from the date on
18 which it is issued and may be renewed in successive years. The secretary
19 may, and shall for good cause shown, extend the license for a period
20 sufficient for the licensee to obtain a license renewal, except that the
21 extension of time shall not exceed three months. The form and content of
22 industrial hemp license applications required by this section and the
23 application process and information required shall be established by rules
24 and regulations adopted by the secretary in accordance with applicable
25 federal law.

26 (d) In order to ensure public health and safety and compliance with
27 applicable federal law, the secretary is authorized to adopt rules and
28 regulations governing qualifications for licensure under this section. The
29 secretary shall adopt rules and regulations establishing reasonable fees for
30 licenses, license renewals, permits or other necessary expenses to defray
31 the cost of implementing and operating the industrial hemp program in this
32 state on an ongoing basis.

33 (e) The department shall refuse to issue a license to any person not in
34 compliance with the provisions of the Kansas agricultural industry growth
35 act or rules and regulations adopted by the secretary and to cancel the
36 license of any licensee subsequently found not to be in compliance, except
37 that no license shall be refused or canceled unless the applicant or licensee
38 has been given an opportunity to be heard before the secretary and to
39 amend the applicant's or licensee's application in order to comply with the
40 requirements of the act or the rules and regulations.

41 (f) The secretary is authorized to apply for, and the court to grant, a
42 temporary or permanent injunction restraining any person from violating
43 or continuing to violate any of the provisions of the Kansas agricultural

1 industry growth act or any rule or regulation adopted by the secretary
2 under the act, notwithstanding the existence of other remedies at law. The
3 injunction is to be issued without bond.

4 (g) If a grower, distributor or processor does not hold a current
5 license or an extension granted by the department pursuant to this section
6 and a crop, plant parts, seeds or raw hemp in the grower, distributor or
7 processor's possession contains, as determined by sampling tested by an
8 independent laboratory selected by the department, a delta-9
9 tetrahydrocannabinol concentration equal to or less than 0.3% on a dry
10 mass basis, the industrial hemp crop, industrial hemp plant parts, seeds or
11 raw industrial hemp shall be subject to civil seizure and sale or destruction
12 by the department.

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

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

19 (b) All revenue from fees or other revenue collected pursuant to rules
20 and regulations adopted by the secretary under the act or from public or
21 private sources for the industrial hemp program shall be used exclusively
22 for the administration and regulation of industrial hemp and the Kansas
23 agricultural industry growth act or to otherwise directly further the
24 purposes of the act. The secretary shall remit all such moneys received by
25 the secretary to the state treasurer in accordance with the provisions of
26 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
27 remittance, the state treasurer shall deposit the entire amount in the state
28 treasury to the credit of the agricultural industry growth program fund. All
29 expenditures from the fund shall be made in accordance with appropriation
30 acts upon warrants of the director of accounts and reports issued pursuant
31 to vouchers approved by the secretary or by a person or persons designated
32 by the secretary.

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

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

38 (2) the net earnings rate for the pooled money investment portfolio
39 for the preceding month.

40 New Sec. 5. To the extent permitted by federal law, any higher
41 education institution in this state that offers a baccalaureate or post-
42 graduate level program of study in agricultural sciences is authorized to
43 acquire, possess, cultivate and test seeds, plants and plant parts of the

1 genera cannabis for the purpose of developing and reproducing seeds that
2 may be certified under the Kansas seed law, article 14 of chapter 2 of the
3 Kansas Statutes Annotated, and amendments thereto, by a certifying
4 agency as defined by K.S.A. 2-1415, and amendments thereto, for growing
5 industrial hemp, or for industrial hemp-related research purposes as
6 defined in section 2, and amendments thereto.

7 New Sec. 6. The secretary is authorized to cooperate with and enter
8 into agreements with governmental agencies of this state or other states,
9 agencies of the federal government, institutions of higher education in this
10 state or other states and private associations in order to carry out the
11 purpose or provisions of the Kansas agricultural industry growth act. The
12 department is authorized to seek public or private funding from any
13 federal, public or private source to further the purposes of the act.

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

19 New Sec. 8. The secretary is authorized to adopt rules and regulations
20 that are necessary for the efficient administration, oversight and
21 enforcement of the Kansas agricultural industry growth act. To the extent
22 permitted by federal law, the secretary shall include as part of the rules and
23 regulations, rules and regulations for the certification of seeds for
24 industrial hemp.

25 New Sec. 9. (a) Nothing in the Kansas agricultural industry growth
26 act shall be construed to authorize the development of or research relative
27 to any strain or variety of cannabis other than industrial hemp, as defined
28 by section 2, and amendments thereto, or to authorize any violation of
29 federal law by any person. For purposes of state law, industrial hemp as
30 defined in section 2, and amendments thereto, shall not be considered a
31 controlled substance or marijuana as defined by state law.

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

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

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

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

1 or

2 (C) were acquired from a licensed grower, distributor or processor
3 holding out the crop, plant parts, seeds or raw hemp as industrial hemp and
4 the grower, distributor or processor possessing the crop, plant parts, seeds
5 or raw hemp does not know or have reason to know that the crop, plant
6 parts, seeds or raw hemp is not industrial hemp as defined in section 2, and
7 amendments thereto; or

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

11 Sec. 10. K.S.A. 2016 Supp. 21-5702 is hereby amended to read as
12 follows: 21-5702. (a) Prosecutions for crimes committed prior to July 1,
13 2009, shall be governed by the law in effect at the time the crime was
14 committed. For purposes of this section, a crime was committed prior to
15 July 1, 2009, if any element of the crime occurred prior thereto.

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

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

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