

HOUSE BILL No. 2563

By Committee on Agriculture

1-27

1 AN ACT concerning agriculture; relating to plants and seeds; seeds treated
2 with certain substances; definitions; labeling; unlawful actions; certain
3 registrations; inspections; live plant dealers; relating to industrial hemp;
4 testing services; creating an advisory board; amending K.S.A. 2-1415,
5 2-1417, 2-1421, 2-1422, 2-1422a and 2-1424 and K.S.A. 2021 Supp. 2-
6 1421a, 2-1423, 2-1427, 2-2113, 2-2118, 2-2120, 2-3901, 2-3902, 2-
7 3903 and 2-3906 and repealing the existing sections; also repealing
8 K.S.A. 2021 Supp. 2-2135, 2-2136, 2-2137, 2-2138, 2-2139, 2-2140
9 and 2-2141.

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

12 New Section 1. (a) The Kansas department of agriculture may
13 provide industrial hemp testing services to non-licensed persons or
14 governmental entities, including law enforcement agencies, when such
15 capacity is available and not required for testing industrial hemp produced
16 by licensees subject to this act.

17 (b) The secretary may establish a fee schedule for any testing services
18 by rules and regulations and shall remit all moneys received from fees
19 collected under this section to the state treasurer in accordance with the
20 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
21 each such remittance, the state treasurer shall deposit the entire amount in
22 the state treasury to the credit of the laboratory testing services fee fund.

23 (c) The results of any tests performed under this section shall be
24 made available to the Kansas bureau of investigation upon request. The
25 Kansas department of agriculture shall coordinate any testing services
26 provided under this section with the Kansas bureau of investigation in
27 order to provide excess testing capacity without displacing any services
28 that may also be provided by the Kansas bureau of investigation.

29 (d) Nothing in this section shall limit the secretary's authority to
30 refuse to provide testing services to any non-licensee.

31 (e) This section shall be a part of and supplemental to the commercial
32 industrial hemp act, K.S.A. 2021 Supp. 2-3901 et seq., and amendments
33 thereto.

34 New Sec. 2. (a) Seed that has been treated with an irritating or

1 poisonous substance that is harmful to humans or other vertebrate animals
2 shall be colored or dyed a color that clearly identifies that the seed has
3 been treated and shall be labeled with the following information:

4 (1) A warning statement that the seed has been treated;

5 (2) the common, coined, chemical or abbreviated chemical name of
6 the substance applied to the seed; and

7 (3) a caution statement that reads "treated seed—do not use for food,
8 feed, or oil purposes" and for mercurial and similarly toxic substances also
9 includes the word "poison" and a skull-and-crossbones.

10 (b) If seed has been treated with a substance that is not irritating,
11 poisonous or harmful to humans or other vertebrate animals, the seed shall
12 be labeled with a statement describing the applied substance.

13 (c) If seed has been treated with an inoculant, the date beyond which
14 the inoculant is not considered effective or the date of the inoculant's
15 expiration shall be included on the label.

16 (d) A separate label may be used for the information required by this
17 section, or such information may be a component of the main label.

18 (e) This section shall be a part of and supplemental to the Kansas
19 seed law.

20 Sec. 3. K.S.A. 2-1415 is hereby amended to read as follows: 2-1415.
21 As used in this act:

22 (a) "Agricultural seed" means the seed of grass, legume, forage,
23 cereal ~~and~~, fiber crops, *oil seed, food plot seed and any cannabis sativa*
24 *crop authorized by state law, or mixtures thereof, but shall. "Agricultural*
25 *seed" does not include horticultural seeds those seeds generally classified*
26 *as vegetable, fruit, flower, tree or shrub and grown for personal use or*
27 *commercial sale, except that cover crop seed shall be considered*
28 *agricultural seed.*

29 (b) "Person" means any individual, member of a partnership,
30 corporation, agents, brokers, company, association or society.

31 (c) "Conditioned" means cleaned, or cleaned and blended, to meet the
32 requirements of agricultural seed for the purpose of being planted or
33 seeded.

34 (d) "Kind" means one or more related species or subspecies ~~which~~
35 *that* singly or collectively is known by one common name, and includes,
36 among others, wheat, oat, vetch, sweet clover and alfalfa.

37 (e) "Variety" means a subdivision of a kind, ~~which that~~
38 characterized by growth, yield, plant, fruit, seed or other characteristics by
39 which it can be differentiated from other plants of the same kind.

40 (f) "Hard seed" means ~~the seeds which that~~ because of hardness or
41 impermeability do not absorb moisture or germinate under seed testing
42 procedure.

43 (g) "Label" means the statements written, printed, stenciled or

1 otherwise displayed upon, or attached to, ~~the~~ a container of agricultural
2 seed, and includes other written, printed, stenciled or graphic
3 representations, in any form whatsoever, pertaining to any agricultural
4 seed, whether in bulk or in containers, and includes declarations and
5 affidavits.

6 (h) "Secretary" means the secretary of *the Kansas department of*
7 *agriculture or the secretary's authorized representative.*

8 (i) "Weed seed" means the seeds of plants considered weeds in this
9 state and includes noxious weed seed, *prohibited weed seed* and restricted
10 weed seed, *as determined by the methods established by ~~rule~~ rules and*
11 *regulation under this act regulations adopted by the secretary.*

12 (j) (1) "Noxious weed seed" means the seed of ~~Kudzu (Pueraria~~
13 ~~lobata), field bindweed (Convolvulus arvensis), Russian knapweed~~
14 ~~(Centaurea repens), hoary cress (Cardaria draba), Canada thistle (Cirsium~~
15 ~~arvense), leafy spurge (Euphorbia esula), quackgrass (Agropyron repens),~~
16 ~~bur ragweed (Ambrosia grayii), pignut (Indian rushpea) (Hoffmannseggia~~
17 ~~densiflora), Texas blueweed (Helianthus ciliaris), Johnson grass (Sorghum~~
18 ~~halepense), sorghum alnum, and any plant the seed of which cannot be~~
19 ~~distinguished from Johnson grass, musk (nodding) thistle (Carduus nutans~~
20 ~~L.) and sericea lespedeza (Lespedeza cuneata) any species of plant~~
21 ~~declared to be a noxious weed by the secretary pursuant to K.S.A. 2-~~
22 ~~1314(a), and amendments thereto, and any rules and regulations adopted~~
23 ~~thereunder.~~

24 (2) "Noxious weed seed" does not include the seed of any weed
25 species:

26 (A) Listed as a noxious weed by a board of county commissioners
27 pursuant to K.S.A. 2-1314(d), and amendments thereto, or designated as a
28 noxious weed by an emergency declaration of the secretary pursuant to
29 K.S.A. 2-1314c, and amendments thereto; and

30 (B) not subsequently declared a statewide noxious weed by the
31 secretary pursuant to K.S.A. 2-1314(a), and amendments thereto, and
32 rules and regulations adopted thereunder.

33 (k) "Prohibited weed seed" means the seeds or bulblets of plant
34 species that are highly destructive and are difficult to control with cultural
35 practices that are commonly accepted as effective and with the use of
36 herbicides. "Prohibited weed seed" includes the seeds of any species of
37 plant designated as prohibited weed seed in any rules and regulations
38 adopted by the secretary in consultation with landowner organizations,
39 seed industry organizations and programs within the college of agriculture
40 at Kansas state university.

41 (l) "Restricted weed seed" means weed seeds or bulblets ~~which shall~~
42 ~~not be present in agricultural seed at a rate per pound in excess of the~~
43 ~~number shown following the name of each weed seed: Silverleaf~~

1 nightshade (*Solanum elaeagnifolium*) 45, horsetrill, bullnettle (*Solanum*
 2 *carolinense*) 45, dock (*Rumex* spp.) 45, oxeye daisy (*Chrysanthemum*
 3 *leucanthemum*) 45, perennial sowthistle (*Sonchum arvensis*) 45, giant
 4 foxtail (*Setaria faberi*) 45, cheat (*Bromus secalinus*) 45, hairy chess
 5 (*Bromus commutatus*) 45, buckthorn plantain (*Plantago lanceolata*) 45,
 6 wild onion or garlic (*Allium* spp.) 18, charlock (*Sinapsis arvensis*) 18, wild
 7 mustards (*Brassica* spp.) 18, treacle (*Erysimum* spp.) 18, wild carrot
 8 (*Daucus carota*) 18, morning glory and purple moonflower (*Ipomoea* spp.)
 9 18, hedge bindweed (*Calystegia* spp., syn. *Convolvulus sepium*) 18,
 10 dodder (*Cuscuta* spp.) 18, except lespedeza seed, other than sericea
 11 lespedeza (*Lespedeza cuneata*), which may contain 45 dodder per pound,
 12 pennyress, fanweed (*Thlaspi arvense*) 18, wild oats (*Avena fatua*) 9,
 13 climbing milkweed, sandvine (*Cynanchum laeve*, syn. *Gonolobus laevis*)
 14 9, jointed goatgrass (*Aegilops cylindrica*) 9, black nightshade complex
 15 (*Solanum ptycanthum*, *S. americanum*, *S. sarrachoides*, *S. nigrum*, and *S.*
 16 *interius*) 9, wild buckwheat, black bindweed (*Polygonum convolvulus*) 9,
 17 velvetleaf, butterprint (*Abutilon theophrasti*) 9, and cocklebur (*Xanthium*
 18 spp.) 9. The total number of the restricted weed seed shall not exceed 90
 19 per pound except native grass, smooth bromegrass, tall fescue,
 20 wheatgrasses and lespedeza, other than sericea lespedeza (*Lespedeza*
 21 *cuneata*), shall not exceed 150 per pound. In smooth bromegrass, fescues,
 22 orchard grass, wheatgrasses, and chaffy range grasses, hairy chess or cheat
 23 shall not exceed 2,500 per pound. For the purposes of this section the
 24 following weedy *Bromus* spp. shall be considered as common weeds and
 25 collectively referred to as "chess": Japanese chess (*Bromus japonicus*), soft
 26 chess (*Bromus mollis*) and field chess (*Bromus arvensis*) that are:

27 (1) *Objectionable in agricultural crops, lawns and gardens of this*
 28 *state and that can be controlled with cultural practices that are commonly*
 29 *accepted as effective or with the use of herbicides; and*

30 (2) *designated as restricted weed seeds pursuant to rules and*
 31 *regulations adopted by the secretary in consultation with landowner*
 32 *organizations, seed industry organizations and programs within the*
 33 *college of agriculture of Kansas state university.*

34 (b)(m) "Advertisement" means all representations, other than those on
 35 the label, disseminated in any manner, or by any means, relating to
 36 agricultural seed.

37 (b)(n) "Record" means all information relating to any shipment of
 38 agricultural seed and includes a file sample of each lot of such seed.

39 (b)(o) "Stop sale order" means an administrative order, authorized by
 40 law, restraining the sale, use, disposition and movement of a definite
 41 amount of agricultural seed.

42 (b)(p) "Seizure" means a legal process, *including an order issued by*
 43 *a court order, against of competent jurisdiction, that allows the secretary*

1 *to take possession of a definite amount of agricultural seed and undertake*
2 *or order the disposition of the seed as the court may direct pursuant to*
3 *K.S.A. 2-1422a, and amendments thereto.*

4 ~~(p)~~(q) "Lot" means a definite quantity of agricultural seed, identified
5 by a lot number or other mark, every portion or bag of which is uniform,
6 within recognized tolerances for the factors which appear in the labeling.

7 ~~(q)~~(r) "Germination rate" means the percentage of seeds capable of
8 producing normal seedlings under ordinarily favorable conditions, in
9 accordance with the methods established by ~~rule rules and regulation-~~
10 ~~under regulations adopted pursuant to this act.~~

11 ~~(r)~~(s) "Pure seed" means the kind of seed declared on the label,
12 exclusive of inert matter, ~~other~~ agricultural or other crop seeds and weed
13 seeds.

14 ~~(s)~~(t) "Inert matter" means all matter *that is* not seeds, ~~and as~~
15 ~~otherwise determined by rules and regulations under this act as determined~~
16 *by the secretary.*

17 ~~(t)~~(u) "Other agricultural seeds or other crop seeds" means seeds of
18 agricultural seeds other than those included in the percentage or
19 percentages of kind or variety and includes collectively all kinds and
20 varieties not named on the label.

21 ~~(u)~~(v) (1) "Hybrid" means the first generation seed of a cross
22 produced by ~~controlling the pollination a method of hybridization that will~~
23 *produce pure seed of which 75% or more contains the genetic material of*
24 *each of the parent plants and by combining:*

25 ~~(1)~~(A) Two or more inbred lines;;

26 ~~(2)~~(B) one inbred or a single cross with an open pollinated variety;;

27 or

28 ~~(3)~~(C) two varieties or species, other than open pollinated varieties of
29 corn (*Zea mays*).

30 (2) "Hybrid ~~shall~~" *does not include the second generation or*
31 *subsequent generations resulting from such crosses. Hybrid designations*
32 *shall be treated as variety names. Controlling the pollination means to use*
33 *a method of hybridization which will produce pure seed which is 75% or*
34 *more hybrid.*

35 ~~(v)~~(w) "Type" means a group of varieties ~~so nearly~~ *that are so* similar
36 that the individual varieties cannot be clearly differentiated except under
37 special conditions.

38 ~~(w)~~(x) "Treated" means that the seed has ~~received an application of a~~
39 ~~substance or process which had a substance applied to such seed that is~~
40 *designed to reduce, control or repel certain disease organisms, insects or*
41 *other pests attacking such seeds or seedlings growing therefrom and*
42 *includes an application of a substance or process designed to increase*
43 *seedling vigor.*

1 ~~(x)(y)~~ "Tested seed" means that a representative sample of the lot of
2 agricultural seed in question has been subjected to examination and ~~its~~
3 ~~character as to such sample's~~ purity and germination rate has been
4 determined.

5 ~~(y)(z)~~ "Native grass seed" means the seeds of aboriginal or native
6 prairie grasses.

7 ~~(z)(aa)~~ "Chaffy range grasses"—~~shall include means~~ Bluestems,
8 Gramas, Yellow Indian grass, ~~wild rye grasses wildryes, buffalo grass~~
9 ~~buffalograss and prairie cord~~ any other grass that has seeds that tend to
10 bind together because of attached husks, hulls, brans or other plant parts
11 that do not readily separate from the seeds during conditioning and
12 prevent the seeds from moving independently of each other.

13 ~~(aa)(bb)~~ "Certified seed" means any class of pedigreed seed or plant
14 parts for which a certificate of inspection has been issued by an official
15 seed certifying agency.

16 ~~(bb)(cc)~~ "Certifying agency" means:

17 (1) An agency ~~which that~~ is authorized under the laws of a state,
18 territory or possession to officially certify seed and ~~which~~ has standards
19 and procedures approved by the secretary of agriculture of the United
20 States department of agriculture to assure the genetic purity and identity of
21 the seed certified; or

22 (2) an agency of a foreign country ~~which that~~ is determined by the
23 secretary of agriculture of the United States department of agriculture to be
24 an agency ~~which that~~ adheres to procedures and standards for seed
25 certification comparable to those adhered to generally by seed certifying
26 agencies under ~~clause paragraph (1) of this subsection.~~

27 ~~(ee)(dd)~~ "Blend" means a combination of two or more varieties of the
28 same kind of agricultural seed in which each ~~in excess of 5% variety~~
29 comprises more than 5% of the whole.

30 ~~(dd)(ee)~~ "Mixture" means a combination of two or more kinds of
31 agricultural seed ~~consisting of more than one kind each in excess of~~ in
32 which each kind comprises more than 5% of the whole.

33 ~~(ee)(ff)~~ "Brand" means a term or mark that is proprietary in nature,
34 whether or not it is a registered or copyrighted term or mark.

35 ~~(ff)(gg)~~ "Commercial means"—~~shall include~~ includes all forms of
36 advertising for which a person must pay another for the dissemination or
37 distribution of the advertisement.

38 ~~(gg)~~ "Horticultural seeds" means those seeds generally classified as
39 vegetable, fruit, flowers, tree and shrub and grown in gardens or on truck
40 farms.

41 (hh) "Grower of agricultural seed" means an individual whose
42 primary occupation is farming and who sells or offers; or exposes or sells
43 for sale agricultural seed of such individual's own growing that the

1 *individual has grown* without the use of a common carrier or a third party
 2 as an agent or broker. ~~Seed shall be in compliance with noxious and~~
 3 ~~restricted weed seed requirements and may advertise if the advertisement~~
 4 ~~specifically states variety, bin run and if tested.~~

5 (ii) "Wholesaler" means any person who is in the business of selling
 6 agricultural seed at wholesale to any person other than the end user.

7 (jj) "Retailer" means any person who sells agricultural seed to the end
 8 user.

9 (kk) "Seed conditioner" means any person who is in the business of
 10 cleaning seed for a fee or compensation.

11 (ll) "*Wild mustard (Brassica spp.)*" means Indian mustard (*Brassica*
 12 *juncea*), Sahara mustard (*B. tournefortii*), field mustard (*B. rapa*), black
 13 mustard (*B. nigra*), bird rape (*B. campestris*) and all other members of the
 14 wild mustard (*Brassica spp.*) genus when occurring incidentally in
 15 agricultural seeds.

16 (mm) "*Cover crop seed*" means the seed of any plant that is planted
 17 to provide seasonal soil cover for the purpose of protecting or enriching
 18 the soil, whether harvested or not. "*Cover crop seed*" does not include the
 19 seeds of any plant of the genus *cannabis*.

20 (nn) "*Food plot*" means a planted area set aside for the purpose of
 21 providing a supplementary source of nutrition to wildlife or other non-
 22 domesticated animals and that is not intended to be harvested for sale.

23 (oo) "*Feminized seed*" means seeds produced by a *cannabis sativa*
 24 plant that are specially bred, treated or genetically engineered to eliminate
 25 male chromosomes to produce only female plants.

26 (pp) "*Oil seed*" means the seeds of any species that is grown as a
 27 crop primarily for the oil contained within the grain.

28 (qq) "*Seed*" means a plant's dormant unit of sexual reproduction
 29 intended to be planted for germination.

30 (rr) "*Act*" or "*Kansas seed law*" means the statutes contained in
 31 article 14 of chapter 2 of the Kansas Statutes Annotated, and amendments
 32 thereto.

33 Sec. 4. K.S.A. 2-1417 is hereby amended to read as follows: 2-1417.

34 (a) Each bulk quantity, package or parcel of agricultural seed offered for
 35 sale, exposed for sale or exchanged for planting or seeding purposes shall
 36 have a label ~~which~~ that shall be affixed thereto or printed or stenciled
 37 thereon or ~~in, for bulk quantity which agricultural seed,~~ shall be furnished
 38 with the invoice; *Each agricultural seed label shall be printed in the*
 39 *English language giving and shall contain the following information,*
 40 *which shall be legible and shall not be modified or, defaced, falsified or*
 41 *misleading and shall not be denied on the label; or on another label*
 42 *attached to the container; and in bulk quantity shall be furnished with the*
 43 *invoice:*

- 1 ~~(a)(1)~~ The commonly accepted ~~name of the kind and variety or~~
2 ~~hybrid designation~~, or the kind and the words "variety not stated", of each
3 agricultural seed component ~~in excess of that comprises more than 5% of~~
4 the whole and the percentage by weight of each in order of its
5 predominance, except for the annual grain crops wheat, oats, barley, and
6 soybeans, for which the label shall include *the* kind and variety. ~~For blends~~
7 ~~of wheat, oats, barley or soybeans, the label shall include the kind~~
8 ~~followed by the word "blend."~~ For brands of wheat, oats, barley, and
9 soybeans, the brand mark or term must precede the word "brand."
10 Components of blends and brands of wheat, oats, barley and soybeans
11 shall be registered with the secretary unless all varieties and the percentage
12 thereof are listed on the label. Blends and brands so registered may be
13 labeled by kind and the words "variety (varieties) not stated." The
14 composition of registered blends and brands shall remain consistent from
15 year to year. Where more than one component is required to be named, the
16 word "mixture" or the word "mixed" shall be shown conspicuously on the
17 label;
- 18 ~~(b)~~(2) the percentage by weight of pure seed;
- 19 ~~(c)~~(3) the percentage by weight of all weed seeds;
- 20 ~~(d)~~(4) the percentage by weight of inert matter;
- 21 ~~(e)~~ for each named agricultural seed: (1) ~~The percentage of~~
22 ~~germination, exclusive of hard seed;~~ (2) ~~the percentage of hard seeds, if~~
23 ~~present;~~ (3) ~~total germination percentage including hard seed may be~~
24 ~~shown;~~ (4) ~~the calendar month and year the test was completed to~~
25 ~~determine such percentages;~~
- 26 ~~(f)~~(5) the percentage by weight of agricultural seeds ~~(, which may be~~
27 ~~designated as "crop seeds"),~~ other than those required to be named on the
28 label;
- 29 ~~(g)~~(6) the lot number or other lot identification, *which shall remain*
30 *visible and legible and shall be placed so as not to obscure any lot number*
31 *or other lot identification that was previously placed on the bulk quantity,*
32 *package or parcel;*
- 33 ~~(h)~~(7) the origin: *i.e. of the seed, including the state or foreign*
34 *country where the seed was grown, or a declaration that the origin of the*
35 *seed is unknown to the seller;* except in the case of grass seeds in quantities
36 of less than 10 pounds *intended for lawn seeding purposes,* ~~or a declaration~~
37 ~~that origin of seed is unknown to seller;~~
- 38 ~~(i)~~(8) the name and rate of occurrence per pound of each kind of
39 restricted weed seed present, which shall not be more than the number per
40 pound of restricted weed seed in agricultural seed, as provided in
41 subsection ~~(k)~~ of K.S.A. 2-1415 *exceed the applicable limitations*
42 *prescribed in rules and regulations adopted by the secretary;*
- 43 ~~(j)~~(9) the name and address of *the* person responsible for the label;

1 *and*

2 ~~(k) agricultural seed which has been treated with chemicals for insect~~
3 ~~or disease control, shall be labeled to show the following:~~

4 ~~(1) A word or statement indicating that the seed has been treated;~~

5 ~~(2) the commonly accepted, coined, chemical or abbreviated chemical~~
6 ~~(generic) name of the applied substance;~~

7 ~~(3) if the substance in the amount applied is harmful to human or~~
8 ~~other vertebrate animals, a caution statement, such as: "Do not use for~~
9 ~~food, feed or oil purposes." The caution for mercurials and similarly toxic~~
10 ~~substances must include in a contrasting color the word "poison" and skull~~
11 ~~and crossbones; and~~

12 ~~(4) a separate label may be used to show this information, or it may~~
13 ~~be a component part of the main label~~

14 *(10) for any label that makes claims that a bulk quantity, package or*
15 *parcel of cannabis sativa contains feminized seeds, the percentage by*
16 *weight of feminized seed.*

17 *(b) For each kind of agricultural seed identified on the label, the*
18 *label shall also include:*

19 *(1) The germination rate, excluding the hard seed;*

20 *(2) the percentage of hard seed, if present;*

21 *(3) the month and year that the test to determine the germination rate*
22 *was conducted; and*

23 *(4) for seed that is sold for lawn and turf purposes, a statement of the*
24 *month and year by which the seed shall be sold that includes the phrase*
25 *"sell by".*

26 *(c) Any label may also include the total germination rate, including*
27 *hard seed.*

28 *(d) Any label may include a statement of the month and year by*
29 *which the seed shall be sold that includes the phrase "sell by".*

30 *(e) The "sell by" month and year on each label shall be not more than*
31 *nine months after the date that the test to determine the germination rate*
32 *was conducted, excluding the calendar month in which the test was*
33 *conducted.*

34 *(f) For blends of wheat, oats, barley or soybeans, the label shall*
35 *include a statement of the seed kind followed by the word "blend". For*
36 *brands of wheat, oats, barley and soybeans, the brand mark or term shall*
37 *precede the word "brand". Components of blends and brands of wheat,*
38 *oats, barley and soybeans shall be registered with the secretary unless all*
39 *varieties and the percentage thereof are listed on the label. Blends and*
40 *brands so registered may be labeled by kind and the words "variety*
41 *(varieties) not stated". The composition of registered blends and brands*
42 *shall remain consistent from year to year. When more than one component*
43 *is required to be named, the word "mixture" or "mixed" shall be shown*

1 *conspicuously on the label.*

2 Sec. 5. K.S.A. 2-1421 is hereby amended to read as follows: 2-1421.

3 (a) ~~It is~~ *shall be* unlawful for any person to sell, offer for sale, expose for
4 sale or advertise by commercial means any agricultural seed for seeding
5 purposes:

6 ~~(1) Unless a test has been made to determine the percentage of~~
7 ~~germination and it shall have been completed within a nine-month period~~
8 ~~(exclusive of the calendar month in which the test was completed)~~
9 ~~immediately prior to sale, exposure for sale or offering for sale~~ *That was*
10 *not tested to determine the germination rate within the nine-month period*
11 *immediately prior to being sold or offered or exposed for sale, excluding*
12 *the calendar month in which the test was completed;*

13 (2) ~~which~~*that* is not labeled in accordance with the provisions of this
14 act;

15 (3) ~~which~~*that* has a false, misleading or incomplete label;

16 (4) ~~which~~*that* contains noxious weed ~~seeds~~ *seed or prohibited weed*
17 *seed;*

18 (5) ~~which~~*that* contains restricted weed seeds in excess of the quantity
19 prescribed by subsection (k) of K.S.A. 2-1415, and amendments thereto
20 pursuant to rules and regulations adopted by the secretary;

21 (6) ~~which~~*that* contains more than 1% of weed seeds by weight,
22 except:

23 (A) *2% of weed seed by weight if the agricultural seed is smooth*
24 *bromegrass, fescues, orchard grass, wheatgrasses, and or lespedeza which*
25 *contain more than 2% weed seed by weight and other than sericea*
26 *lespedeza;*

27 (B) *4% weed seed by weight if the agricultural seed is any chaffy*
28 *range grasses which contain more than 4% by weight grass; or*

29 (C) *1% of weed seed by weight for any other agricultural seed;*

30 (7) ~~if any label, advertisement or other media represents such~~
31 ~~agricultural seed to be certified or registered, unless: (A) Such certification~~
32 ~~or registration has been determined by an official seed certifying agency;~~
33 ~~and (B) such seed bears an official label issued for such seed by such~~
34 ~~agency stating that the seed is certified or registered;~~

35 (8) ~~by variety name not certified by an official seed certifying agency~~
36 ~~when it is a variety for which a certificate of plant variety protection has~~
37 ~~been issued under the plant variety protection act, as amended, and as in~~
38 ~~effect on July 1, 1997, specifying sale only as a class of certified seed,~~
39 ~~except that seed from a certified lot may be labeled as to variety name~~
40 ~~when used in a mixture by, or with the approval of, the owner of the~~
41 ~~variety;~~

42 (9)(8) without having registered with the secretary as required by
43 K.S.A. 2-1421a, and amendments thereto; *and*

1 (9) if any label, advertisement or other media represents such
2 agricultural seed to be certified or registered, unless:

3 (A) Such certification or registration has been determined by an
4 official seed-certifying agency; and

5 (B) such seed bears an official label issued for such seed by such
6 agency stating that the seed is certified or registered.

7 (b) It ~~is~~ shall be unlawful for any person to:

8 (1) ~~To~~ Alter or deface any label so that the information is false or
9 misleading or to mutilate any label;

10 (2) ~~to~~ disseminate any false or misleading advertisements concerning
11 agricultural seed;

12 (3) ~~to~~ issue any statement, invoice or declaration as to the variety of
13 any agricultural seed ~~which~~ that is false or misleading;

14 (4) ~~to~~ hinder or obstruct the secretary ~~or an authorized representative~~
15 ~~of the secretary~~ in the performance of official duties;

16 (5) ~~to~~ fail to comply with a stop sale order, or to move or otherwise
17 handle or dispose of any quantity of seed *that is* held under a stop sale
18 order; or *that has* a stop sale tag attached thereto, except with *the* express
19 permission of the enforcing officer in writing and ~~except for the purpose~~
20 ~~specified therein~~ *subject to any conditions established by the enforcing*
21 *officer;*

22 (6) ~~to~~ use the word "trace" as a substitute for any statement ~~which~~
23 *that* is required; *or*

24 (7) ~~to~~ use the word "type" in any labeling in ~~connection~~ with the
25 name of any agricultural seed variety.

26 (c) (1) Except as provided in subsection ~~(a)(8)~~ (a)(7), it shall not be a
27 violation of this act for the grower of agricultural seed to sell; *or* offer or
28 expose for sale for planting or seeding purposes agricultural seed ~~which~~
29 *that* has not been tested and labeled when the agricultural seed:

30 ~~(+) (A) Has been~~ Was grown on the grower's premises;

31 ~~(-) (B) is free from noxious weed seed and prohibited weed seed; and~~

32 ~~(-) (C) does not contain any restricted weed seed in excess of the~~
33 ~~quantity prescribed by subsection (k) of K.S.A. 2-1415, and amendments~~
34 ~~thereto established in rules and regulations adopted by the secretary; and~~

35 (D) *is of a variety that is not prohibited from being sold or offered or*
36 *exposed for sale by any legal, contractual or other protection.*

37 (2) Agricultural seed sold pursuant to this exemption shall not be
38 advertised by commercial means unless ~~such~~ *the* advertisement
39 specifically states ~~such~~ *that the* agricultural seed is bin run or *states*
40 *whether such the* agricultural seed has been tested.

41 Sec. 6. K.S.A. 2021 Supp. 2-1421a is hereby amended to read as
42 follows: 2-1421a. (a) (1) Each wholesaler shall register with the secretary
43 and shall pay a registration fee not to exceed \$300. ~~The current wholesale~~

1 registration fee is hereby set at \$175 and shall remain at that amount until
2 changed by rules and regulations of the secretary. *A wholesaler shall not*
3 *offer or expose the seed for sale to any person, business, wholesaler,*
4 *retailer or facility when the wholesaler knows or has reason to know that*
5 *the buyer or potential buyer is not actively registered with the secretary as*
6 *provided by this section.*

7 (2) Each retailer shall register with the secretary and shall pay a
8 registration fee not to exceed \$30. ~~The current retailer registration fee is~~
9 ~~hereby set at \$10 and shall remain at that amount until changed by rules~~
10 ~~and regulations of the secretary.~~

11 (3) Registration shall be required for each place of business at which
12 agricultural seed is sold, offered or exposed for sale by the wholesaler or
13 retailer.

14 (4) An individual who conducts a wholesaler and retailer business at
15 the same location shall be required to register as both a wholesaler and
16 retailer.

17 (b) Application for registration *as a wholesaler or retailer, or both,*
18 *shall be made on a form provided by the secretary. Each registration for a*
19 *wholesaler or retailer shall expire on August 31 following the date of*
20 *issuance unless such registration is renewed annually.*

21 ~~(c) Each seed conditioner shall register with the secretary. Such seed~~
22 ~~conditioner registration shall require no registration fee and shall be a~~
23 ~~biennial registration. Any seed conditioner who is ceasing to do business~~
24 ~~as a seed conditioner shall notify the Kansas department of agriculture~~
25 ~~within 30 days of ceasing to do business.~~

26 ~~(d)~~ As used in this section, "agricultural seed" ~~shall include~~ *includes*
27 *grain when sold as such, or when sold according to grain standards and the*
28 *seller knows, or has reason to know, that the grain is to be used for seeding*
29 *or planting purposes.*

30 ~~(e)(d)~~ The secretary shall remit all moneys received under this section
31 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
32 and amendments thereto. Upon receipt of each such remittance, the state
33 treasurer shall deposit the entire amount in the state treasury to the credit
34 of the agricultural seed fee fund which is hereby created. All expenditures
35 from such fund shall be made in accordance with appropriation acts upon
36 warrants of the director of accounts and reports issued pursuant to
37 vouchers approved by the secretary or a person or persons designated by
38 the secretary.

39 ~~(f)(e)~~ All moneys credited to the agricultural seed fee fund shall be
40 expended for any purpose consistent with the Kansas seed law.

41 ~~(g)(f)~~ The secretary may adopt rules and regulations necessary to
42 administer the provisions of this act.

43 (g) *The secretary, after providing notice and an opportunity for a*

1 *hearing in accordance with the provisions of the Kansas administrative*
2 *procedure act, may deny any application or revoke, suspend, modify or*
3 *refuse to renew any registration issued pursuant to this act if such*
4 *applicant or the holder of such registration has:*

5 (1) *Failed to comply with any provision or requirement of this act or*
6 *any rule or regulation adopted hereunder;*

7 (2) *failed to comply with any laws, rules or regulations of any other*
8 *state, or the United States, related to the registration of agricultural seed*
9 *dealers, the testing of seed, the labeling of seed or seed certification; or*

10 (3) *had any license, certificate, registration or permit issued by*
11 *Kansas or any other state, or the United States, related to the registration*
12 *of agricultural seed dealers, the testing of seed, the labeling of seed or*
13 *seed certification revoked, suspended or modified.*

14 (h) *This section shall be a part of and supplemental to the Kansas*
15 *seed law, K.S.A. 2-1415 et seq., and amendments thereto.*

16 Sec. 7. K.S.A. 2-1422 is hereby amended to read as follows: 2-1422.

17 (a) *Any person who ~~shall violate~~ violates any of the provisions of this act*
18 *shall be deemed guilty of ~~a~~ an unclassified misdemeanor and upon*
19 *conviction thereof shall be punished by a fine of not less than twenty-five*
20 *dollars (\$25) nor more than five hundred dollars (\$500) more than \$500.*

21 (b) *The secretary, after providing notice and an opportunity for a*
22 *hearing, in accordance with the Kansas administrative procedure act, may*
23 *suspend, revoke or deny any registration and assess a civil penalty against*
24 *any person who violates or fails to comply with the requirements of this*
25 *act, or any rules or regulations adopted hereunder, of not less than \$100*
26 *nor more than ~~\$1,000~~ ~~\$3,000~~ \$1,000 per violation. ~~In the case of a~~*
27 *continuing violation, each day such violation continues may be deemed a*
28 *separate violation. ~~Such civil penalty may be assessed in addition to any~~*
29 *other penalty provided by law. **Such civil penalty may be assessed in***
30 ***addition to any other penalty provided by law.***

31 (c) *All moneys collected pursuant to this section shall be deposited in*
32 *the state treasury in accordance with K.S.A. 75-4215, and amendments*
33 *thereto, and shall be credited to the state general fund.*

34 Sec. 8. K.S.A. 2-1422a is hereby amended to read as follows: 2-
35 1422a. (a) *Agricultural seed ~~which~~ that is mislabeled shall be considered a*
36 *common nuisance and shall be subject to seizure and injunction in the*
37 *manner as provided by law. ~~In the event the~~*

38 (b) (1) *When a court of competent jurisdiction finds ~~the~~ any seed to*
39 *be in violation of this act; and orders the condemnation of ~~said~~ such seed,*
40 *it the seed may be denatured, reprocessed, destroyed, relabeled; or*
41 *otherwise disposed of as the court may direct. ~~Provided, That in no~~*
42 *instance shall the court order a disposition of said seed without first having*
43 *given directs.*

1 (2) *Before a court orders a disposition of any seed, the defendant*
2 *shall have an opportunity to be heard and to apply to the court* ~~(a) for:~~

3 (A) *Permission to reprocess or relabel* ~~it the seed in order to bring it~~
4 *such seed into compliance with* ~~law this act~~ *and any rules or regulations*
5 *applicable thereto;* ~~and (b) for~~

6 (B) *a release of* ~~said such seed.~~

7 (3) ~~When, in the performance of duties, the secretary or a duly~~
8 ~~authorized representative of the secretary, applies to any court for a~~
9 ~~temporary restraining order or a temporary or permanent injunction,~~
10 ~~restraining to prevent any person from violating or continuing to violate~~
11 ~~any of the provisions of this act; or any rule rules and regulation under this~~
12 ~~act, said regulations adopted pursuant thereto, an order granting or~~
13 ~~denying the secretary's request shall be issued without bond; and said~~
14 ~~order shall be issued without regard to whether any criminal proceeding~~
15 ~~has been instituted.~~

16 Sec. 9. K.S.A. 2021 Supp. 2-1423 is hereby amended to read as
17 follows: 2-1423. (a) *Inspection.* ~~The secretary or a duly authorized~~
18 ~~representative of the secretary shall inspect, sample and determine the~~
19 ~~purity and germination rate of agricultural seed at such time, and in such~~
20 ~~places; and to such extent as the secretary or representatives of the~~
21 ~~secretary consider considers advisable. The secretary or an authorized~~
22 ~~representative of the secretary may stop further sale or movement of any~~
23 ~~lot or lots of agricultural seed found to be in violation of any of the~~
24 ~~provisions of this act or any rules or regulations adopted pursuant thereto~~
25 ~~until compliance with the law this act has been satisfied or other another~~
26 ~~disposition has been made. It shall be the duty of the secretary or a duly~~
27 ~~authorized representative of the secretary to:~~

28 (1) *Enforce and administer this act;*

29 (2) *sample, inspect, make analysis of and test agricultural seeds*
30 *transported, sold, offered for sale or exposed for sale within the state for*
31 *planting and seeding purposes at such time and place and to such extent as*
32 *considered necessary to determine whether the agricultural seeds are in*
33 *compliance with provisions of this act; and*

34 (3) *cooperate and enter into agreements with the United States*
35 *department of agriculture and other agencies in seed law enforcement.*

36 (b) (1) *Access.* ~~The secretary or authorized representatives of the~~
37 ~~secretary shall have free access, during reasonable customary business~~
38 ~~hours, to all places of business, buildings, vehicles, cars and vessels, of~~
39 ~~whatsoever kind, used in the sale, transportation, processing, packaging,~~
40 ~~importation or storage of agricultural seed and shall have the authority to:~~

41 ~~(1)-(A) Inspect the records concerning the place of origin, or~~
42 ~~concerning the sale, of any agricultural seed;~~

43 ~~(2)-(B) open any package containing or suspected of containing any~~

1 agricultural seed that is exposed or offered for sale; and

2 ~~(3)(C)~~ take therefrom samples of contents for examination.

3 (2) *This section shall also apply to any seed that the secretary has*
 4 *reason to believe is or may be exposed for sale, except for lots of*
 5 *agricultural seed that are clearly and permanently marked as not for sale*
 6 *and stored separately from seed that is or may be offered for sale.*

7 (3) The owner of the seed shall be paid the retail price of the sample
 8 so procured if the owner so requests.

9 (c) *Stop sale orders.* The secretary or authorized representatives of
 10 the secretary shall have the authority to: ~~(1)~~ issue and enforce a written or
 11 printed "stop sale" order to the owner or custodian of any quantity of
 12 agricultural seed ~~which that the secretary or duly authorized~~
 13 ~~representatives of the secretary determine~~ *determines* to be in violation of
 14 any of the provisions *provision* of this act or rules and regulations adopted
 15 hereunder, ~~which.~~ *Such an order shall prohibit further sale, processing and*
 16 *or movement of such seed, except on with the approval of the enforcing*
 17 *officer, until such officer has evidence that the law has this act and all*
 18 *rules and regulations adopted hereunder have been complied with and*
 19 *issues a release from the "stop sale" order of such seed.* Any stop sale
 20 order issued pursuant to this subsection is subject to review in accordance
 21 with the Kansas judicial review act. The provisions of this subsection shall
 22 not be construed as limiting the right of the enforcement officer to proceed
 23 as authorized by other sections of this act.

24 Sec. 10. K.S.A. 2-1424 is hereby amended to read as follows: 2-1424.
 25 When the ~~said secretary decides~~ *determines* that prosecution for a
 26 violation of this act *or rules and regulations adopted pursuant hereunder*
 27 is warranted, ~~he or she~~ *the secretary* shall:

28 (a) Report the facts *supporting such determination* to the prosecuting
 29 attorney of the county in which the violation was committed; and

30 (b) furnish that ~~officer~~ *prosecuting attorney* with a copy of the results
 31 of ~~the any~~ analysis or other examination of such agricultural seed. *Such*
 32 *results shall be* duly attested to by the analyst or other representative
 33 ~~making~~ *of the secretary who performed the analysis or made the*
 34 *examination.*

35 Sec. 11. K.S.A. 2021 Supp. 2-1427 is hereby amended to read as
 36 follows: 2-1427. The secretary ~~of agriculture~~ is hereby empowered to
 37 ~~make and publish~~ *adopt* such rules and regulations ~~after public hearing~~
 38 ~~it may deem~~ *the secretary deems* necessary to carry ~~into effect~~ *out* the full
 39 intent and meaning of chapter 2, article 14, of the Kansas Statutes
 40 Annotated, and amendments thereto, ~~and.~~ The secretary is hereby
 41 empowered to enforce the provisions of this act and the rules and
 42 regulations ~~promulgated by the secretary of agriculture~~ *adopted hereunder.*

43 Sec. 12. K.S.A. 2021 Supp. 2-2113 is hereby amended to read as

1 follows: 2-2113. As used in this act:

- 2 (a) "Plant pests" includes any stage of development of any insect,
3 nematode, arachnid, or any other invertebrate animal, or any bacteria,
4 fungus, virus, weed or any other parasitic plant or microorganism, or any
5 toxicant, ~~which~~ *that* can:
- 6 (1) Injure plants or plant products; ~~or which can~~
7 (2) cause a threat to public health.
- 8 (b) "Secretary" means the secretary of the Kansas department of
9 agriculture, or the authorized representative of the secretary.
- 10 (c) "Plants" means trees, shrubs, grasses, vines, forage and cereal
11 plants and all other plants including growing crops; cuttings, grafts, scions,
12 buds and all other parts of plants.
- 13 (d) "Plant products" means fruit, vegetables, roots, bulbs, seeds,
14 wood, lumber, grains and all other plant products.
- 15 (e) "Location" means any grounds or premises on or in which live
16 plants are propagated, or grown, or from which live plants are removed for
17 sale, or any grounds or premises on or in which live plants are being
18 fumigated, treated, packed, stored or offered for sale.
- 19 (f) "Live plant dealer" means any person, unless excluded by rules
20 and regulations adopted hereunder, who engages in business in the
21 following manner:
- 22 (1) Grows live plants for sale or distribution;
23 (2) buys or obtains live plants for the purpose of reselling or
24 reshipping within this state; *or*
25 (3) plants, transplants or moves live plants from place to place within
26 the state with the intent to plant such live plants for others and receives
27 compensation for the live plants, for the planting of such live plants or for
28 both live plants and plantings; ~~or~~
29 ~~(4) gives live plants as a premium or for advertising purposes.~~
- 30 (g) "Person" means a corporation, company, society, association,
31 partnership, governmental agency and any individual or combination of
32 individuals.
- 33 (h) "Permit" means a document issued or authorized by the secretary
34 to provide for the movement of regulated articles to restricted destinations
35 for limited handling, utilization or processing.
- 36 (i) "Host" means any plant or plant product upon which a plant pest is
37 dependent for completion of any portion of its life cycle.
- 38 (j) "Regulated article" means any host or any article of any character
39 as described in a quarantine or regulation carrying or being capable of
40 carrying the plant pest against which the quarantine or regulation is
41 directed.
- 42 (k) "Live plant" means any living plant, cultivated or wild, or any part
43 thereof that can be planted or propagated unless specifically exempted by

1 the rules or regulations of the secretary.

2 (l) "Quarantine pest" means a pest of potential economic importance
3 to the area endangered thereby and not yet present there, or present but not
4 widely distributed and being officially controlled.

5 (m) "Regulated nonquarantine pest" means a nonquarantine pest
6 whose presence in plants for planting affects the intended use of those
7 plants with an economically unacceptable impact and which is therefore
8 regulated.

9 (n) "Official control" means the active enforcement of mandatory
10 phytosanitary regulations and the application of mandatory phytosanitary
11 procedures with the objective of eradication or containment of quarantine
12 pests or for the management of regulated nonquarantine pest.

13 (o) "Regulated area" means an area into which, within which or from
14 which plants, plant products and other regulated articles are subjected to
15 phytosanitary regulations or procedures in order to prevent the
16 introduction or spread of quarantine pests or to limit the economic impact
17 of regulated nonquarantine pests.

18 (p) "Bee" means a honey-producing insect of the genus *Apis*
19 including all life stages of the insect.

20 (q) "Beekeeping equipment" means all hives, supers, frames or other
21 devices used in the rearing or manipulation of bees or their brood.

22 (r) "Toxicant" means any chemical, including an agricultural
23 chemical as defined in K.S.A. 2-2202, and amendments thereto, or any
24 biological substance ~~which~~ *that*, if present in unsafe levels, can render a
25 plant or plant product unsafe for human or animal consumption.

26 (s) *"Temporary location" means an auxiliary or secondary location*
27 *where live plants are offered for sale but without the infrastructure for the*
28 *production or maintenance of live plants, such as a farmers market,*
29 *garden show or festival.*

30 (t) *"Special event live plant dealer" means a person:*

31 (1) *Intending to sell, offer for sale or distribute live plants for five or*
32 *fewer days in a calendar year as a nonprofit, charitable, educational or*
33 *religious organization; or*

34 (2) *who gives live plants as a premium or for advertising purposes*
35 *without selling live plants as part of such person's business.*

36 Sec. 13. K.S.A. 2021 Supp. 2-2118 is hereby amended to read as
37 follows: 2-2118. Upon request the secretary may provide inspection
38 services for any person who owns or possesses plants or plant products or
39 for certification purposes of regulated articles intended for shipment. Upon
40 payment of the appropriate fee as established by rule and regulation and as
41 inspection personnel are available, the inspection shall be conducted and a
42 report or certificate setting forth the inspection results shall be issued if
43 requested. Inspection fees shall not exceed ~~\$30~~ \$45 per hour. The secretary

1 may assess reasonable diagnostic and identification fees as established by
2 rules and regulations adopted by the secretary. Mileage incurred shall also
3 be paid by the person requesting the inspection at the rate established by
4 rules and regulations. If certificate is requested an additional fee not to
5 exceed \$50, as established by rules and regulations, plus any fee amount
6 charged by the United States government for the acquisition of federal
7 certificates shall be assessed. The fees for such inspection and certificate in
8 effect on the day preceding the effective date of this act shall continue in
9 effect until the secretary adopts rules and regulations fixing a different fee
10 therefor under this subsection. In any case where any intended receiving
11 state or country requires or authorizes the certification of plants or plant
12 products, bees or beekeeping equipment or other regulated articles to be
13 based on origin, special handling, treatment or any other procedure in
14 addition to or in lieu of actual visual inspection of such articles, the
15 secretary may provide such certification. The secretary may refuse to
16 perform any inspection if the regulated article to be inspected is found to
17 be in such condition that it cannot be adequately inspected or the environs
18 in which the regulated article is located present a danger to the health and
19 safety of the inspection personnel.

20 Sec. 14. K.S.A. 2021 Supp. 2-2120 is hereby amended to read as
21 follows: 2-2120. (a) Every live plant dealer, before *advertising for sale*,
22 ~~selling or~~, offering for sale or delivering any live plants in this state, shall
23 procure from the secretary a live plant dealer's license for each location
24 from which such live plant dealer engages in business as a live plant
25 dealer, *except for temporary locations that are registered with the*
26 *secretary*.

27 (b) Application for such license shall be made on a form furnished by
28 the secretary. The fee for each application shall be fixed by rules and
29 regulations adopted by the secretary, except that such fee shall not exceed
30 ~~\$80~~ *\$100*, excluding the plant pest emergency fee, authorized pursuant to
31 K.S.A. 2021 Supp. 2-2129, and amendments thereto.

32 (c) ~~A live plant dealer shall not be required to obtain a license if such~~
33 ~~live plant dealer does not import or export plants into or from the state and~~
34 ~~the annual gross receipts of such live plant dealer's business is less than~~
35 ~~\$10,000 who does not export live plants from the state, has annual gross~~
36 ~~receipts under ~~\$5,000~~ *\$10,000* and has only one location, other than~~
37 ~~temporary locations, may apply for a reduced license fee. The reduced fee~~
38 ~~shall not exceed \$50, excluding the plant pest emergency fee. Application~~
39 ~~for the reduced license fee shall be made on the license application form~~
40 ~~provided by the secretary.~~

41 (d) ~~Such~~ *All live plant dealer's license dealer licenses* shall expire on
42 January 31, following *the date of issue. Renewal of a license on or after*
43 *such date of expiration shall result in a \$25 late fee, except that if a*

1 *license is renewed after the March 1 immediately following such date of*
2 *expiration, such late fee shall be \$50. A live plant dealer license shall not*
3 *be issued until all fees are paid to the secretary.*

4 (e) *Any person who conducts business as a special event live plant*
5 *dealer shall not be required to obtain a live plant dealer's license but shall*
6 *register with the secretary in such form and manner as prescribed by the*
7 *secretary.*

8 (f) A live plant dealer may only engage in the live plant business with
9 live plants ~~which~~ that are:

10 (1) In compliance with all quarantines and regulated nonquarantine
11 pest freedom standards established by the secretary; or

12 (2) accompanied by a valid certificate of inspection of a federal
13 inspector or inspector of another state stating that such live plants comply
14 with all applicable quarantines and regulated nonquarantine pest freedom
15 standards.

16 Sec. 15. K.S.A. 2021 Supp. 2-3901 is hereby amended to read as
17 follows: 2-3901. (a) K.S.A. 2021 Supp. 2-3901 et seq., and amendments
18 thereto, shall be known and may be cited as the commercial industrial
19 hemp act.

20 (b) As used in the commercial industrial hemp act:

21 (1) "Commercial" means the cultivation or production of industrial
22 hemp ~~for purposes other than research~~ as any purpose authorized under
23 K.S.A. 2021 Supp. 2-3906, and amendments thereto.

24 (2) "Delta-9 tetrahydrocannabinol concentration" means the
25 combined percentage of delta-9 tetrahydrocannabinol and its optical
26 isomers, their salts and acids, and salts of their acids, reported as free
27 THC:

28 (A) On a dry weight basis, of any part of the plant *cannabis sativa* L.;

29 or
30 (B) on a percentage by weight basis in hemp products, waste or
31 substances resulting from the production or processing of industrial hemp.

32 (3) "Effective disposal" includes, but is not limited to:

33 (A) Destruction; or

34 (B) any other method of disposing of industrial hemp or hemp
35 products found to be in violation of this act that is permitted under the
36 provisions of 7 U.S.C. § 1621 et seq. and any rules and regulations
37 adopted thereunder.

38 (4) "Hemp products" means all products made from industrial hemp,
39 including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper,
40 particleboard, plastics, seed, seed meal and seed oil for consumption and
41 any extract from industrial hemp intended for further processing. Final
42 "hemp products" may contain a tetrahydrocannabinol concentration of not
43 more than 0.3%. As used in this paragraph, "tetrahydrocannabinol

1 concentration" means the same as in K.S.A. 65-6235(b)(3), and
2 amendments thereto.

3 (5) "Hemp producer" means any individual, licensed or otherwise,
4 engaging in the cultivation or production of industrial hemp for
5 commercial purposes pursuant to K.S.A. 2021 Supp. 2-3906, and
6 amendments thereto.

7 (6) "Hemp processor" means a person registered under K.S.A. 2021
8 Supp. 2-3907, and amendments thereto, to process and manufacture
9 industrial hemp and hemp products.

10 (7) "Industrial hemp" means all parts and varieties of the plant
11 *cannabis sativa* L., whether growing or not, that contain a delta-9
12 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight
13 basis.

14 (8) "Person" means an individual, corporation, partnership,
15 association, joint stock company, trust, unincorporated organization or any
16 similar entity or any combination of the foregoing acting in concert.

17 ~~(9) "Seed research" means research conducted to develop or recreate
18 better strains of industrial hemp, particularly for the purpose of seed
19 production.~~

20 ~~(10) "State educational institution" means the university of Kansas,
21 Kansas state university, Wichita state university, Emporia state university,
22 Pittsburg state university—and, Fort Hays state university, or any other
23 accredited college, university, technical college or community college
24 within Kansas.~~

25 ~~(H)(10) "Authorized seed or clone plants" means a source of
26 industrial hemp seeds or clone plants that:~~

27 (A) Has been certified by a certifying agency, as defined by K.S.A. 2-
28 1415, and amendments thereto;

29 (B) has been produced from plants that were tested during the active
30 growing season and were found to produce industrial hemp having a
31 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry
32 weight basis and has been certified in writing by the grower or distributor
33 of such seeds or clone plants to possess such qualities; or

34 (C) meets any other authorized standards approved by the Kansas
35 department of agriculture through rules and regulations, except that no
36 seed or clone plants shall be considered authorized seed or clone plants if
37 they do not meet any standard adopted by the United States department of
38 agriculture pursuant to 7 U.S.C. § 1621 et seq., and amendments thereto.

39 Sec. 16. K.S.A. 2021 Supp. 2-3902 is hereby amended to read as
40 follows: 2-3902. (a) The Kansas department of agriculture, ~~alone or in
41 coordination with a state educational institution, may cultivate industrial
42 hemp grown from authorized seed or clone plants and promote the
43 research and development of industrial hemp, in accordance with 7 U.S.C.~~

1 § 5940. This research may include:

2 (1) Oversight and analysis of growth of industrial hemp to conduct
3 agronomy research and analysis of required soils, growing conditions and
4 harvest methods relating to the production of various varieties of industrial
5 hemp that may be suitable for various commercial hemp products;

6 (2) seed research on various types of industrial hemp that are best
7 suited to be grown in Kansas, including seed availability, creation of
8 hybrid types, in-the-ground variety trials and seed production;

9 (3) analysis on the economic feasibility of developing an industrial
10 hemp market in various types of industrial hemp that can be grown in
11 Kansas;

12 (4) analysis on the estimated value-added benefits, including
13 environmental benefits, that Kansas businesses would reap by having an
14 industrial hemp market of Kansas-grown industrial hemp varieties;

15 (5) a study on the agronomy research conducted worldwide relating
16 to industrial hemp varieties, production and utilization;

17 (6) a study on the feasibility of attracting federal and private funding
18 for industrial hemp research; and

19 (7) a pilot program in Russell county, and other counties as
20 determined by the department, for the purpose of economic development,
21 research, cultivation, market analysis, manufacturing and transportation of
22 industrial hemp and industrial hemp products.

23 (b) In the event that the department acts alone to cultivate industrial
24 hemp grown from authorized seed or clone plants and to promote the
25 research and development of industrial hemp, the secretary of agriculture
26 shall establish an advisory board within the department to review and
27 recommend applications for pilot projects and research proposals to the
28 secretary. The secretary shall not approve any such project or proposal
29 without the recommendation of the advisory board.

30 (c) The department shall oversee and annually license all individuals
31 participating in the cultivation, growth, research, oversight, study, analysis,
32 transportation, processing or distribution of authorized seed or clone plants
33 or industrial hemp pursuant to this section. The department shall establish
34 fees for licenses, license renewals and other necessary expenses to defray
35 the cost of implementing and operating the provisions of this section in
36 this state on an ongoing basis. Any modification fee established by the
37 department for any requested change to a license that was previously
38 issued by the department under this section shall not exceed \$50 *shall, by*
39 *the adoption of rules and regulations, establish an advisory board within*
40 *the department to provide input and information regarding the regulation*
41 *and development of industrial hemp in the state of Kansas and any*
42 *programs proposed or operated by the department. Such board shall*
43 *include a minimum of six members, including members that represent the*

1 following:

2 (1) *The Kansas legislature;*

3 (2) *crop research;*

4 (3) *industrial hemp production or processing;*

5 (4) *law enforcement;*

6 (5) *seed certification; and*

7 (6) *the state entity designated to regulate hemp processors.*

8 (b) *The state advisory board shall meet at least annually. Members*
9 *shall receive no compensation but shall be paid subsistence allowances,*
10 *mileage and other expenses as provided in K.S.A. 75-3223, and*
11 *amendments thereto.*

12 ~~(d) (1)(c) The department shall~~ *secretary of agriculture may require,*
13 *as a qualification for initial or continuing* ~~license~~ *employment with the*
14 *Kansas department of agriculture, all individuals seeking a license or*
15 ~~license renewal under the research program established under this section~~
16 *overseeing or regulating industrial hemp to be fingerprinted and to submit*
17 *to a state and national criminal history record check. The fingerprints shall*
18 *be used to identify the individual and to determine whether the individual*
19 *has a record of criminal history in this state or any other jurisdiction. The*
20 *department is authorized to submit the fingerprints to the Kansas bureau of*
21 *investigation and the federal bureau of investigation for a state and*
22 *national criminal history record check. The department may use the*
23 *information obtained from fingerprinting and the criminal history record*
24 *check for purposes of verifying the identification of the individual and for*
25 *making an official determination of the qualifications for initial or*
26 *continuing* ~~license~~ **employment** *pursuant to this section and rules and*
27 *regulations promulgated hereunder. Disclosure or use of any information*
28 *received by the department for any purpose other than the purposes*
29 *provided for in this section shall be a class A misdemeanor and shall*
30 *constitute grounds for removal from office or termination of employment.*

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

36 (3) *The Kansas bureau of investigation may charge a reasonable fee*
37 *for conducting a criminal history record check.*

38 (4) *The individual seeking a license or license renewal* **initial or**
39 **continuing employment** *under this section shall pay the costs of*
40 *fingerprinting and the state and national criminal history record checks.*

41 ~~(e) The secretary of agriculture shall promulgate rules and regulations~~
42 ~~to carry out the provisions of this section on or before December 31, 2019,~~
43 ~~except that no such promulgated rule or regulation shall concern the~~

1 recording of license plates. Such rules and regulations shall include, but
2 not be limited to, a requirement that license holders shall have a current
3 license in their possession at all times that they are engaged in the
4 cultivation, growth, research, oversight, study, analysis, transportation,
5 processing or distribution of authorized seed or clone plants or industrial
6 hemp pursuant to this section.

7 (f) ~~The department shall submit a report to the legislature outlining~~
8 ~~the steps and timeline to implement a process that would allow individuals~~
9 ~~and business entities to grow and process industrial hemp in Kansas and to~~
10 ~~sell industrial hemp in other states. Such report shall be submitted to the~~
11 ~~senate standing committee on agriculture and natural resources and the~~
12 ~~house standing committee on agriculture on or before January 14, 2019.~~
13 ~~The department shall send such committees an annual supplemental report~~
14 ~~on the continued progress of such process at the beginning of each regular~~
15 ~~legislative session for the following three years.~~

16 (g) ~~Nothing in this section shall be construed to authorize any~~
17 ~~individual to violate any state or federal law.~~

18 (h) ~~The legislature shall review the provisions of this section prior to~~
19 ~~July 1, 2022.~~

20 Sec. 17. K.S.A. 2021 Supp. 2-3903 is hereby amended to read as
21 follows: 2-3903. (a) ~~The alternative crop research act licensing fee fund~~
22 ~~created in the state treasury shall be renamed the commercial industrial~~
23 ~~hemp act licensing fee fund and continue to shall be administered by the~~
24 ~~secretary of agriculture. All expenditures from the commercial industrial~~
25 ~~hemp act licensing fee fund shall be made in accordance with~~
26 ~~appropriation acts upon warrants of the director of accounts and reports~~
27 ~~issued pursuant to vouchers signed by the secretary of agriculture or the~~
28 ~~secretary's designee.~~

29 (b) Except as provided in K.S.A. 2021 Supp. 2-3907, and
30 amendments thereto, licensing and renewal fees shall be established
31 pursuant to rules and regulations adopted by the secretary under the
32 commercial industrial hemp act. The amounts received for such fees shall
33 be deposited in the state treasury in accordance with K.S.A. 75-4215, and
34 amendments thereto, and shall be credited to the commercial industrial
35 hemp act licensing fee fund.

36 Sec. 18. K.S.A. 2021 Supp. 2-3906 is hereby amended to read as
37 follows: 2-3906. (a) The Kansas department of agriculture, in consultation
38 with the governor and attorney general, shall submit a plan to the United
39 States department of agriculture under which the Kansas department of
40 agriculture will monitor and regulate the commercial production of
41 industrial hemp within the state in accordance with 7 U.S.C. § 1621 et seq.
42 and any rules and regulations adopted thereunder.

43 (b) Such plan shall include the following:

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

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

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

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

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

16 (B) *standards for authorized seed or clone plants;*

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

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

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

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

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

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

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

41 (3) The Kansas department of agriculture shall immediately report
42 any violation by a hemp producer with a greater culpable mental state than
43 negligence to the attorney general and such hemp producer shall not be

1 subject to the exemption in subsection (c)(1).

2 (d) Any individual otherwise eligible to become a licensed hemp
3 producer shall not be eligible to produce industrial hemp if such individual
4 has submitted any materially false information in any application to
5 become a licensed hemp producer.

6 (e) (1) The department shall require, as a qualification for initial or
7 continuing licensure, all individuals seeking a license or license renewal as
8 a hemp producer under this section to be fingerprinted and to submit to a
9 state and national criminal history record check. The fingerprints shall be
10 used to identify the individual and to determine whether the individual has
11 a record of criminal history in this state or any other jurisdiction. The
12 department is authorized to submit the fingerprints to the Kansas bureau of
13 investigation and the federal bureau of investigation for a state and
14 national criminal history record check. The department may use the
15 information obtained from fingerprinting and the criminal history record
16 check for purposes of verifying the identification of the individual and for
17 making an official determination of the qualifications for initial or
18 continuing licensure as a hemp producer pursuant to this section and rules
19 and regulations promulgated hereunder. Disclosure or use of any
20 information received by the department for any purpose other than the
21 purposes provided for in the commercial industrial hemp act shall be a
22 class A misdemeanor and shall constitute grounds for removal from office
23 or termination of employment.

24 (2) An individual who has been convicted of a felony violation of
25 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
26 thereto, or a substantially similar offense in another jurisdiction, within the
27 immediately preceding 10 years, shall be disqualified from initial or
28 continuing licensure as a hemp producer under this section.

29 (3) The Kansas bureau of investigation may charge a reasonable fee
30 for conducting a criminal history record check.

31 (4) The individual seeking a license or license renewal as a hemp
32 producer under this section shall pay the costs of fingerprinting and the
33 state and national criminal history record checks.

34 (f) The secretary of agriculture shall promulgate rules and regulations
35 to implement the plan submitted to the United States department of
36 agriculture and to otherwise effectuate the provisions of this section.

37 (g) Upon the repeal of 7 U.S.C. § 5940 or either the adoption of a
38 federal plan by the United States department of agriculture that allows for
39 the cultivation and production of industrial hemp for commercial purposes
40 within the state or upon the adoption of rules and regulations by the
41 Kansas secretary of agriculture that establish the cultivation and
42 production of industrial hemp for commercial purposes within the state,
43 the Kansas department of agriculture may discontinue the industrial hemp

1 research program established pursuant to K.S.A. 2021 Supp. 2-3902, and
2 amendments thereto.

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

6 (i) Any licensing or other fees collected pursuant to this section and
7 any rules and regulations adopted hereunder shall be deposited in the
8 commercial industrial hemp act licensing fee fund established by K.S.A.
9 2021 Supp. 2-3903, and amendments thereto, for all costs of the
10 administration of the commercial production of industrial hemp.

11 (j) This section shall be a part of and supplemental to the commercial
12 industrial hemp act, K.S.A. 2021 Supp. 2-3901 et seq., and amendments
13 thereto.

14 Sec. 19. K.S.A. 2-1415, 2-1417, 2-1421, 2-1422, 2-1422a and 2-1424
15 and K.S.A. 2021 Supp. 2-1421a, 2-1423, 2-1427, 2-2113, 2-2118, 2-2120,
16 2-2135, 2-2136, 2-2137, 2-2138, 2-2139, 2-2140, 2-2141, 2-3901, 2-3902,
17 2-3903 and 2-3906 are hereby repealed.

18 Sec. 20. This act shall take effect and be in force from and after its
19 publication in the statute book.