

SENATE BILL No. 328

By Committee on Natural Resources

1-14

1 AN ACT concerning the plant pest and agriculture commodity certification
2 act; relating to certain definitions; relating to plant pest containment;
3 amending K.S.A. 2015 Supp. 2-2113, 2-2114, 2-2116 and 2-2117 and
4 repealing the existing sections.

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

7 Section 1. K.S.A. 2015 Supp. 2-2113 is hereby amended to read as
8 follows: 2-2113. As used in this act:

9 (a) "Plant pests"~~include~~ *includes* any stage of development of any
10 insect, nematode, arachnid, or any other invertebrate animal, or any
11 bacteria, fungus, virus, weed or any other parasitic plant or microorganism,
12 *or any toxicant*, which can injure plants or plant products, *or which can*
13 *cause a threat to public health.*

14 (b) "Secretary" means the secretary of the Kansas department of
15 agriculture, or the authorized representative of the secretary.

16 (c) "Plants" means trees, shrubs, grasses, vines, forage and cereal
17 plants and all other plants, *including growing crops*; cuttings, grafts,
18 scions, buds and all other parts of plants.

19 (d) "Plant products" means fruit, vegetables, roots, bulbs, seeds,
20 wood, lumber, grains and all other plant products.

21 (e) "Location" means any grounds or premises on or in which live
22 plants are propagated, or grown, or from which live plants are removed for
23 sale, or any grounds or premises on or in which live plants are being
24 fumigated, treated, packed, stored or offered for sale.

25 (f) "Live plant dealer" means any person, unless excluded by rules
26 and regulations adopted hereunder, who engages in business in the
27 following manner:

28 (1) Grows live plants for sale or distribution;

29 (2) buys or obtains live plants for the purpose of reselling or
30 reshipping within this state;

31 (3) plants, transplants or moves live plants from place to place within
32 the state with the intent to plant such live plants for others and receives
33 compensation for the live plants, for the planting of such live plants or for
34 both live plants and plantings; or

35 (4) gives live plants as a premium or for advertising purposes.

36 (g) "Person" means a corporation, company, society, association,

1 partnership, governmental agency and any individual or combination of
2 individuals.

3 (h) "Permit" means a document issued or authorized by the secretary
4 to provide for the movement of regulated articles to restricted destinations
5 for limited handling, utilization or processing.

6 (i) "Host" means any plant or plant product upon which a plant pest is
7 dependent for completion of any portion of its life cycle.

8 (j) "Regulated article" means any host or any article of any character
9 as described in a quarantine or regulation carrying or being capable of
10 carrying the plant pest against which the quarantine or regulation is
11 directed.

12 (k) "Live plant" means any living plant, cultivated or wild, or any part
13 thereof that can be planted or propagated unless specifically exempted by
14 the rules or regulations of the secretary.

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

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

22 (n) "Official control" means the active enforcement of mandatory
23 phytosanitary regulations and the application of mandatory phytosanitary
24 procedures with the objective of eradication or containment of quarantine
25 pests or for the management of regulated nonquarantine pest.

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

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

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

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

39 Sec. 2. K.S.A. 2015 Supp. 2-2114 is hereby amended to read as
40 follows: 2-2114. The secretary, either independently, or in cooperation
41 with counties, cities, other political subdivisions of the state, federal
42 agencies, agencies of other states or private entities may enter into
43 contracts and agreements and may carry out official control operations or

1 measures to locate, and to suppress, control, eradicate, prevent, *contain* or
2 retard the spread of, any plant pests.

3 Sec. 3. K.S.A. 2015 Supp. 2-2116 is hereby amended to read as
4 follows: 2-2116. Wherever the secretary finds a plant, plant product or
5 other regulated article that is infested by a plant pest or finds that a plant
6 pest exists on any premises in this state or is in transit in this state, the
7 secretary may:

8 (a) Upon giving notice to the person in possession thereof, or agent of
9 such person, seize, quarantine, treat or otherwise dispose of such plant pest
10 in such manner as the secretary deems necessary to suppress, control,
11 eradicate, prevent, *contain* or retard the spread of such plant pest;

12 (b) order such person in possession thereof, or agent of such person to
13 so treat or otherwise dispose of such plant pest. If such person fails to
14 comply with such order, the secretary may treat or otherwise dispose of
15 such plant pest; or

16 (c) if such person is a live plant dealer, after notice and opportunity
17 for a hearing in accordance with the provisions of the Kansas
18 administrative procedure act, the secretary may assess against such live
19 plant dealer any reasonable expense incurred by the secretary in treating or
20 otherwise disposing of such plant pest.

21 Sec. 4. K.S.A. 2015 Supp. 2-2117 is hereby amended to read as
22 follows: 2-2117. The secretary is authorized to quarantine this state or any
23 portion thereof when the secretary determines that such action is necessary
24 to prevent or retard the spread of a plant pest *or to contain a plant pest for*
25 *the protection of the public health* and to quarantine any other state or
26 portion thereof whenever the secretary determines that a plant pest exists
27 therein and that such action is necessary to prevent or retard its spread,
28 *movement or transportation* into this state. Before promulgating the
29 determination that a quarantine is necessary, the secretary, after providing
30 due notice to interested parties, shall hold a public hearing at which any
31 interested party may appear and be heard either in person or by attorney.
32 The secretary may impose a temporary quarantine for a period not to
33 exceed 90 days during which time a public hearing, as provided in this
34 section, shall be held if it appears that a quarantine for more than the 90-
35 day period will be necessary to prevent, *contain* or retard the spread of the
36 plant pest. The secretary may limit the application of the quarantine to the
37 infested portion of the quarantined area and appropriate environs, to be
38 known as the regulated area, and, without further hearing, may extend the
39 regulated area to include additional portions of the quarantined area.
40 Following the establishment of the quarantine, no person shall move the
41 plant pest against which the quarantine is established or move any
42 regulated article described in the quarantine, within, from, into or through
43 this state contrary to the quarantine promulgated by the secretary. The

1 quarantine may restrict the movement of the plant pest and any regulated
2 articles from the quarantined or regulated area in this state into or through
3 other parts of this state or other states and from the quarantined or
4 regulated area in other states into or through this state. The secretary shall
5 impose such inspection, disinfection, certification or permit and other
6 requirements as the secretary shall deem necessary to effectuate the
7 purposes of this act. The secretary is authorized to establish regulations
8 defining pest freedom standards for live plants, plants and plant products
9 or other regulated articles that pose risk of moving plant pests that may
10 cause economic or environmental harm.

11 Sec. 5. K.S.A. 2015 Supp. 2-2113, 2-2114, 2-2116 and 2-2117 are
12 hereby repealed.

13 Sec. 6. This act shall take effect and be in force from and after its
14 publication in the statute book.