

STATE OF KANSAS

SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **SB 149**, on page 28, following line 1, by inserting:

"New Sec. 5. (a) The secretary of commerce shall order drug screening of owners or officers of businesses that are applicants for or recipients of benefits from the high performance incentive program, K.S.A. 79-32,160a, and amendments thereto, the high performance incentive act or fund, K.S.A. 74-50,131 et seq., and amendments thereto, the promoting employment across Kansas act, K.S.A. 74-50,210 et seq., and amendments thereto, and accelerated depreciation programs as provided by K.S.A. 79-32,143a, and amendments thereto, at any time when reasonable suspicion exists that such owner or officer of a business applicant for or recipient of benefits from such economic development assistance program is unlawfully using a controlled substance or controlled substance analog. The secretary of commerce may use any information obtained by the secretary of commerce to determine whether such reasonable suspicion exists, including, but not limited to, an officer or owner's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the owner or officer indicating unlawful use of a controlled substance or controlled substance analog. Where the secretary of commerce has determined reasonable suspicion exists, participation in such testing shall be a condition for the business of the owner or officer to continue to receive state income tax benefits pursuant to such economic development assistance programs.

(b) Any owner or officer whose drug screening results in a positive test may request that the

drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any owner or officer who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such owner or officer who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(c) Any owner or officer who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary of commerce. The business of any owner or officer who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this section shall be ineligible to receive economic development assistance or state economic development income tax benefits until completion of such substance abuse treatment. Upon completion of the substance abuse treatment programs, such owner or officer of a business recipient of economic development income tax benefits may be subject to periodic drug screening, as determined by the secretary of commerce. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, an owner or officer shall be ordered to complete again a substance abuse treatment program, and the business of such owner or officer shall be terminated from economic development assistance benefits or economic development income tax benefits for a period of 12 months, or until such owner or officer completes a substance abuse treatment program, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, the business of the officer or owner that is receiving economic development assistance or economic development income tax benefits shall be terminated from such benefits and shall not be eligible for such programs.

(d) If an officer or owner of a business applicant for or recipient of economic development assistance or economic development income tax benefits has been convicted under federal or state law

of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such business shall thereby become forever ineligible to receive any economic development assistance or economic development income tax benefits under this section unless such conviction is the person's first conviction. First-time offenders convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, the business of such owner or operator shall become ineligible to receive economic development assistance or economic development income tax benefits for five years from the date of conviction.

(e) Except for hearings before the Kansas department of commerce or criminal prosecutions, the results of any drug screening administered as part of the drug screening program authorized by this section shall be confidential and shall not be disclosed publicly.

(f) The secretary of commerce may adopt such rules and regulations as are necessary to carry out the provisions of this section.

(g) Any authority granted to the secretary of commerce under this section shall be in addition to any other penalties prescribed by law.

(h) As used in this section:

(1) "Economic development assistance," "economic development income tax benefits," or "economic development assistance programs" means the economic development assistance programs of, and benefits pursuant to, the high performance incentive act or high performance incentive fund, pursuant to K.S.A. 79-32,160a, and amendments thereto, and K.S.A. 74-50,131 et seq., and amendments thereto, the promoting employment across Kansas act, K.S.A. 74-50,210 et seq., and

amendments thereto, and expensing programs pursuant to K.S.A. 79-32,143a, and amendments thereto.

(2) "Controlled substance" means the same as in K.S.A. 2012 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(3) "Controlled substance analog" means the same as in K.S.A. 2012 Supp. 21-5701, and amendments thereto.";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, following "benefits" by inserting "owners and operators of business recipients of state income tax benefits;"

Senator _____