

## 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 section 7606 of the agricultural act of 2014 and other federal law, research  
11 activities, business development and support activities, public-private  
12 cooperation and educational activities toward the growth of an industrial  
13 hemp cultivating, processing or distributing industry in Kansas. This effort  
14 shall include, but not be limited to, developing a value-added industrial  
15 hemp industry in this state such as the use of oilseed or of plant stalks to  
16 produce high-grade food and beauty products, fiber and cellulose for  
17 automotive parts, building products, fuel or other industrial hemp products  
18 and the development, marketing or commercialization of additional or  
19 improved Kansas products and markets for Kansas-grown or Kansas-made  
20 products. The intent of this act is to accomplish this purpose through the  
21 efforts of Kansas farmers and others engaged in agribusiness in this state  
22 and the expertise of the Kansas department of agriculture and Kansas  
23 institutions of higher education. The secretary of agriculture is directed to  
24 implement the provisions of this act and to encourage and facilitate pilot  
25 programs and research in accordance with this act.

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

- 28 (a) "Act" means the Kansas agricultural industry growth act.  
29 (b) "Certified seed" means industrial hemp seed that has been  
30 certified as not containing a delta-9 tetrahydrocannabinol (THC)  
31 concentration more than 0.3% on a dry mass basis by the department.  
32 (c) "Secretary" means the secretary of agriculture, or the secretary's  
33 designee or authorized agent.  
34 (c) (d) "Department" means the Kansas department of agriculture.  
35 (d) (e) "Distribute" means to offer for sale, sell, exchange or barter  
36 industrial hemp, when used in the context of distribution by the secretary,

1 to disseminate to licensees, with or without an administrative fee.

2 (e) (f) "Grower" means any person engaged in the growing or  
3 cultivating of industrial hemp under the auspices of a pilot program for  
4 research purposes and to the extent consistent with section 7606 of the  
5 agricultural act of 2014 and other federal law.

6 (f) (g) "Industrial hemp" means the plants and all plant parts of the  
7 genera cannabis that do not contain a delta-9 tetrahydrocannabinol (THC)  
8 concentration more than 0.3% on a dry mass basis, grown from seed  
9 certified or approved by a certifying agency, as defined by K.S.A. 2-1415,  
10 and amendments thereto, the department for growing industrial hemp.

11 (g) (h) "Industrial hemp products" means all products made from  
12 industrial hemp, including, but not limited to, cloth, cordage, fiber, food,  
13 fuel, paint, paper, particleboard, plastics, seed, seed metal meal and seed  
14 oil for consumption and seed for cultivation if the seeds originate from  
15 industrial hemp varieties and are certified or approved by a certifying  
16 agency, as defined by K.S.A. 2-1415, and amendments thereto, the  
17 department for growing industrial hemp.

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

20 (i) (j) "Pilot program" means a program developed by the department  
21 of agriculture or a higher educational institution to study the growth,  
22 cultivation or marketing of industrial hemp and that is conducted in  
23 accordance with regulations adopted by the secretary. As part of a pilot  
24 program, the department or a higher educational institution may authorize  
25 persons or enter into production leases with persons to grow, cultivate or  
26 process industrial hemp for research purposes.

27 (k) "Process" means to perform one or more mechanical or  
28 chemical operations on industrial hemp in order to change or preserve the  
29 industrial hemp under the auspices of a pilot program for research  
30 purposes and to the extent consistent with section 7606 of the agricultural  
31 act of 2014 and other federal law.

32 (j) (l) "Higher educational institution" means:

33 (A) A state educational institution as defined in K.S.A. 76-711, and  
34 amendments thereto, a municipal university or, community college or  
35 technical college established and operating under the laws of this state or  
36 any not-for-profit independent institution of higher education which is  
37 accredited by the north central association of colleges and secondary  
38 schools accrediting agency as of July 1, 2017 higher learning commission,  
39 is operated independently and not controlled or administered by the state  
40 or any agency or subdivision thereof, maintains open enrollment and the  
41 main campus or principal place of operation of which is located in Kansas;  
42 and

43 (B) that offers a baccalaureate or post-graduate level program of

1 study in agricultural sciences.

2 (k) (m) "Tetrahydrocannabinol" or "THC" means the natural or  
3 synthetic equivalents of the substances contained in the plant or in the  
4 resinous extractives of cannabis or any synthetic substances, compounds,  
5 salts or derivatives of the plant or chemicals and their isomers with similar  
6 chemical structure and pharmacological activity.

7 (l) (n) "Research" means all types of industrial hemp-related  
8 agronomy research and analysis, seed research and seed or varietal  
9 improvement, research or the development or commercialization of  
10 industrial hemp products, analysis of opportunities for value-added  
11 functions or industries based on industrial hemp in Kansas or any other  
12 research directly related to industrial hemp or the development, marketing  
13 or support of an industrial hemp industry in Kansas that would further the  
14 purposes of the act and is in compliance with federal law. This research  
15 may include, but not be limited to:

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

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

23 (3) analysis on the economic feasibility of developing an industrial  
24 hemp market in various types of industrial hemp that can be grown in  
25 Kansas;

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

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

31 (6) a study on the feasibility of attracting federal and private funding  
32 for industrial hemp research.

33 New Sec. 3. (a) Any person who processes raw industrial hemp  
34 within this state, or who distributes industrial hemp in or into this state,  
35 shall annually obtain a license from the department secretary for each  
36 facility at which industrial hemp is processed in this state, or from which  
37 industrial hemp is distributed in or into this state, authorizing the person to  
38 process or distribute industrial hemp before engaging in the activity. Any  
39 person who makes only retail sales of industrial hemp obtained from a  
40 licensed processor or distributor is not required to obtain a license. A  
41 processor or distributor licensed under this subsection shall agree that the  
42 department secretary has the right to inspect its facilities and any industrial  
43 hemp in its possession for compliance with the provisions of this act and

1 the rules and regulations of the department.

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

11 (c) Any person who is required to obtain a license under this section  
12 shall submit an application on a form approved by the secretary,  
13 accompanied by payment of a fee in the amount established by the  
14 secretary. The secretary shall require, as a qualification for initial or  
15 continuing licensure, all individuals seeking a license or license renewal  
16 under this act to be fingerprinted and submit to a state and national  
17 criminal history record check. Individuals who have previously submitted  
18 fingerprints to the secretary need not submit fingerprints again unless  
19 requested by the secretary, but shall submit to a new state and national  
20 criminal history record check. The fingerprints shall be used to identify the  
21 person and to determine whether the person has a record of criminal  
22 arrests and convictions in this state or other jurisdictions. The secretary is  
23 authorized to submit the fingerprints to the Kansas bureau of investigation  
24 and the federal bureau of investigation for a state and national criminal  
25 history record check. Local and state law enforcement officers and  
26 agencies shall assist the secretary in the taking and processing of  
27 fingerprints of such persons and shall release all records of a person's  
28 arrests and convictions to the secretary. The secretary may use the  
29 information obtained from fingerprinting and a person's criminal history  
30 only for the purposes of verifying the identification of such person and in  
31 the official determination of the fitness of such person's qualification for  
32 initial or continuing licensure. Disclosure or use of any information  
33 received by the secretary or a designee of the secretary for any purpose  
34 other than the purpose provided for in this section shall be a class A  
35 misdemeanor and shall constitute grounds for removal from office or  
36 termination of employment. Nothing in this subsection shall prevent  
37 disclosure of any information received by the secretary pursuant to this  
38 section to the post auditor in accordance with the provisions of the  
39 legislative post audit act. Costs of fingerprinting and the state and national  
40 criminal history record check shall be paid by the applicant. Each license  
41 shall expire one calendar year from the date on which it is issued and may  
42 be renewed in successive years. The secretary may, and shall for good  
43 cause shown, extend the license for a period sufficient for the licensee to

1 obtain a license renewal, except that the extension of time shall not exceed  
2 three months. The form and content of industrial hemp license applications  
3 required by this section and the application process and information  
4 required shall be established by rules and regulations adopted by the  
5 secretary in accordance with applicable federal law.

6 (d) In order to ensure public health and safety and compliance with  
7 applicable federal law, the secretary **is authorized to shall** adopt rules and  
8 regulations governing qualifications for licensure under this section **for**  
9 **institutions of higher learning and for other persons**. The secretary shall  
10 adopt rules and regulations establishing reasonable fees for licenses,  
11 license renewals, permits or other necessary expenses to defray the cost of  
12 implementing and operating the industrial hemp program in this state on  
13 an ongoing basis.

14 (e) The secretary shall grant a license to any applicant to grow,  
15 cultivate or process industrial hemp under the auspices of a pilot program  
16 who meets the requirements of this act and the rules and regulations of the  
17 secretary. The **department** secretary shall refuse to issue a license or  
18 license renewal to any individual, as an adult, who has been convicted of  
19 any violation of K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to  
20 their transfer, article 57 of chapter 21 of the Kansas Statutes Annotated,  
21 and amendments thereto, any violation of any provision of the uniform  
22 controlled substances act prior to July 1, 2009, or any substantially similar  
23 **offense from another jurisdiction**, any person not in compliance with the  
24 provisions of the Kansas agricultural industry growth act or rules and  
25 regulations adopted by the secretary **and to cancel**. The secretary may  
26 **revoke** the license of any licensee subsequently found not to be in  
27 compliance, except that no license shall be refused or **canceled** revoked  
28 unless the applicant or licensee has been given an opportunity to be heard  
29 before the secretary and, **if applicable**, to amend the applicant's or  
30 licensee's application in order to comply with the requirements of the act  
31 or the rules and regulations.

32 (f) Each license issued by the secretary pursuant to this act shall show  
33 the full name of the licensee, shall have a serial number and shall be  
34 signed by the secretary or the secretary's designee under seal of the  
35 department. A license or license extension issued by the secretary to a  
36 person shall be prima facie evidence that the person named on the license  
37 or license extension is legally authorized to possess industrial hemp and is  
38 entitled to all the rights and privileges of a licensee under the industrial  
39 hemp act while the license or license extension remains unrevoked and  
40 unexpired. The secretary shall provide copies of all licenses or license  
41 extensions issued by the department to the Kansas bureau of investigation  
42 and shall immediately notify the Kansas bureau of investigation if a  
43 license or license extension is revoked or expired.

1 (g) The secretary is authorized to apply for, and the court to grant, a  
2 temporary or permanent injunction restraining any person from violating  
3 or continuing to violate any of the provisions of the Kansas agricultural  
4 industry growth act or any rule or regulation adopted by the secretary  
5 under the act, notwithstanding the existence of other remedies at law. The  
6 injunction is to be issued without bond.

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

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

19 New Sec. 4. (a) The secretary of agriculture shall, in coordination  
20 with the federal drug enforcement administration or other federal or state  
21 agencies, certifying agencies as defined by K.S.A. 2-1415, and  
22 amendments thereto, or higher educational institutions, obtain certified  
23 industrial hemp seed or certify seed as industrial hemp seed and shall  
24 approve or distribute the certified seed to licensees to use in accordance  
25 with the provisions of this act. Licensees shall not use seed from any other  
26 source other than from the secretary, including self-produced seed, without  
27 the written approval and certification of the seed by the secretary. The  
28 secretary shall certify seed from or for licensees that are higher educational  
29 institutions for use by higher educational institutions in accordance with  
30 this act. The secretary shall maintain records of all seed acquired,  
31 approved, certified or distributed. The secretary may charge licensees a  
32 reasonable fee based on the cost of obtaining the seed and administrative  
33 costs in operating the seed distribution program.

34 (b) The secretary shall inspect at least annually all research,  
35 cultivation or growing operations of industrial hemp for compliance with  
36 the provisions of this act and the rules and regulations of the department  
37 and, if the inspection is deemed passed by the secretary, shall issue a  
38 certification for each industrial hemp research, cultivation or growing  
39 facility, plot or field stating that the operation has been inspected,  
40 approved and certified by the secretary and that the seed utilized was  
41 certified by the secretary for use as industrial hemp seed and obtained by  
42 the licensee from the secretary or used with the written approval of the  
43 secretary. The secretary's certification shall be prominently displayed at all

1 research facilities, cultivation or growing sites by the licensee. The  
2 certification shall provide the date of the most recent inspection, the  
3 location of the industrial hemp research, cultivation or growing facility,  
4 plot or field and identification and contact information for the secretary's  
5 inspector or inspectors who conducted the inspection, and for the licensee.  
6 The secretary shall provide a copy of all such certifications to the Kansas  
7 bureau of investigation.

8 (c) The secretary may require a licensee to submit to the secretary  
9 industrial hemp plant or seed material at any time for the purpose of  
10 inspection or for testing the percentage of THC by dry weight of the plant  
11 or seed material to determine whether it is industrial hemp as defined in  
12 this act. The testing shall be at the licensee's expense, except that, absent a  
13 reasonable suspicion that the material is not industrial hemp as defined in  
14 this act, no licensee shall be required to bear the costs of more than one  
15 test per year. Absent facts or circumstances indicating specific intent to  
16 violate the provisions of this act, a test result of more than 0.3%, but not  
17 more than 1%, of delta-9 tetrahydrocannabinol concentration on a dry  
18 weight basis shall not constitute sole grounds to revoke a license issued by  
19 the secretary under section 3, and amendments thereto, or certifications  
20 issued under this section. The licensee shall cooperate with the secretary as  
21 the secretary may require to lower the THC content to 0.3% or less. Plant  
22 material or seeds showing a test result exceeding 0.3%, but not more than  
23 1%, of THC by dry weight shall be destroyed by the secretary.

24 New Sec. 4 5. (a) There is hereby created in the state treasury the  
25 agricultural industry growth program fund, to be administered by the  
26 secretary.

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

41 (c) On or before the 10<sup>th</sup> of each month, the director of accounts and  
42 reports shall transfer from the state general fund to the agricultural  
43 industry growth program fund interest earnings based on:

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

3 (2) the net earnings rate for the pooled money investment portfolio  
4 for the preceding month.

5 New Sec. 5 6. To the extent permitted by federal law, and as  
6 permitted under the provisions of section 4, and amendments thereto, any  
7 higher education institution in this state that offers a baccalaureate or post-  
8 graduate level program of study in agricultural sciences or the department  
9 is authorized to develop and implement pilot programs and conduct  
10 research in accordance with the purpose and provisions of this act and  
11 regulations adopted by the secretary, acquire, possess, grow, cultivate and  
12 test seeds, plants and plant parts of the genera cannabis for the purpose of  
13 developing and reproducing seeds that may be certified under the Kansas  
14 seed law, article 14 of chapter 2 of the Kansas Statutes Annotated, and  
15 amendments thereto, by a certifying agency as defined by K.S.A. 2-1415,  
16 and amendments thereto, the secretary for growing industrial hemp, or for  
17 pilot programs as permitted by federal law or industrial hemp-related  
18 research purposes as defined in section 2, and amendments thereto, as  
19 permitted by federal law.

20 New Sec. 6 7. The secretary is authorized to cooperate with and enter  
21 into agreements with governmental agencies of this state or other states,  
22 agencies of the federal government, institutions of higher education in this  
23 state or other states and private associations in order to carry out the  
24 purpose or provisions of the Kansas agricultural industry growth act. The  
25 department is authorized to shall seek public or private funding from any  
26 federal, public or private source sources to further the purposes of the act.

27 New Sec. 7 8. Any person convicted of violating any of the  
28 provisions of the Kansas agricultural industry growth act or who impedes,  
29 hinders or otherwise prevents, or attempts to prevent, the secretary or an  
30 employee or agent of the department secretary in performance of that  
31 official's duty in connection with the act commits a Class C misdemeanor,  
32 except that if the violation is related to a controlled substance that is not  
33 industrial hemp, the person may also be prosecuted for, convicted of, and  
34 punished for any other offense in the Kansas criminal code.

35 New Sec. 8 9. The secretary is authorized to shall adopt rules and  
36 regulations that are necessary for the efficient administration, oversight  
37 and enforcement of the Kansas agricultural industry growth act. Such rules  
38 and regulations shall include requirements that license holders who are  
39 individuals shall have a current license or license extension in their  
40 possession at all times that they are engaged in growing, cultivating,  
41 processing, distributing or transporting industrial hemp. To the extent  
42 permitted by federal law, the secretary shall include as part of the rules and  
43 regulations, rules and regulations for the certification of seeds for



1 industrial hemp by the secretary.

2 New Sec. 9 10. (a) Nothing in the Kansas agricultural industry  
 3 growth act shall be construed to authorize the development of or research  
 4 relative to any strain or variety of cannabis other than industrial hemp, as  
 5 defined by section 2, and amendments thereto, or to authorize any  
 6 violation of federal law by any person. For purposes of state law, industrial  
 7 hemp as defined in section 2, and amendments thereto, shall not be  
 8 considered a controlled substance or marijuana as defined by state law.

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

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

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

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

22 (C) were acquired from a licensed grower, distributor or processor  
 23 holding out the crop, plant parts, seeds or raw hemp as industrial hemp and  
 24 the grower, distributor or processor possessing the crop, plant parts, seeds  
 25 or raw hemp does not know or have reason to know that the crop, plant  
 26 parts, seeds or raw hemp is not industrial hemp as defined in section 2, and  
 27 amendments thereto; or

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

31 (1) A person issued a valid,  
 32 unrevoked and unexpired license or license extension who is acting in  
 33 compliance with this act is immune from criminal prosecution for a  
 34 violation of any state law or any city ordinance or county resolution  
 35 involving the controlled substance marijuana. Where the circumstances  
 36 involve growing, cultivation or research by the person, the secretary must  
 37 have issued a certification for such growing, cultivation or research of  
 38 industrial hemp pursuant to section 4, and amendments thereto, for  
 39 immunity from criminal prosecution pursuant to this subsection to apply.  
 40 Where the circumstances involve possession of seeds, the secretary must  
 41 have approved or certified such seeds pursuant to section 4, and  
 42 amendments thereto, for use as industrial hemp seeds for immunity from  
 43 criminal prosecution pursuant to this subsection to apply. As used in this  
 subsection, "criminal prosecution" includes arrest, detention in custody

1 and charging or prosecution of the licensee.

2 (2) The mere possession by a licensee of vegetative material or seeds  
3 appearing to be marijuana or a positive test result from a test indicating  
4 only the presence or absence of THC shall not, in the absence of other  
5 facts and circumstances, constitute probable cause for arrest for possession  
6 of a controlled substance prohibited by state law, a city ordinance or  
7 county resolution when the licensee has a valid, unrevoked and unexpired  
8 license or license extension in the licensee's possession.

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

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

18 New Sec. 12. It is the intent of the legislature that if any provision or  
19 clause of this act or application thereof to any person or circumstance is  
20 held invalid, such invalidity shall not affect other provisions or  
21 applications of the act which can be given effect without the invalid  
22 provision or application, and to this end the provisions of this act are  
23 declared to be severable.

24 Sec. 11 13. K.S.A. 2016 Supp. 21-5702 is hereby repealed.

25 Sec. 12 14. This act shall take effect and be in force from and after its  
26 publication in the statute book.