

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2244

By Committee on Agriculture

2-4

1 AN ACT concerning industrial hemp; relating to the effective disposal
2 thereof by the department of agriculture in coordination with state or
3 local law enforcement; requiring industrial hemp processors to register
4 with the state fire marshal; providing exemptions from regulations;
5 allowing issuance of stop sale, use or removal orders; amending K.S.A.
6 2020 Supp. 2-3903 and 2-3907, and repealing the existing sections.

2-3901,

and 2-3908

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) Whenever a person licensed under the commercial
10 industrial hemp act is required to conduct effective disposal of industrial
11 hemp pursuant to standards established by the controlled substances act,
12 21 U.S.C. 13 et seq., or under regulations adopted by the United States
13 drug enforcement administration, the Kansas department of agriculture
14 shall notify state or local law enforcement agencies with jurisdiction in the
15 area in which the industrial hemp was grown that effective disposal is
16 required.

17 (b) The department shall develop a plan for effective disposal of
18 industrial hemp in coordination with the state or local law enforcement
19 agency notified pursuant to subsection (a).

20 (c) (1) In order to carry out the provisions of this section, the
21 department is authorized to perform any action necessary to ensure that
22 effective disposal of industrial hemp occurs, including, but not limited to:

- 23 (A) Taking temporary possession of the industrial hemp;
- 24 (B) destroying the industrial hemp; or
- 25 (C) supervising and directing any appropriate method of effective
26 disposal.

27 (2) The state or local law enforcement agency shall approve in
28 advance any such action taken by the department or any person under the
29 department's direction or supervision.

30 (d) (1) The secretary may require any employee or agent of the
31 department who participates in the effective disposal of industrial hemp to
32 be fingerprinted and to submit to a state and national criminal history
33 record check annually. The secretary may use the information obtained
34 from fingerprinting and the criminal history record check to verify the
35 identity of the employee or agent and determine whether the employee or
36 agent has been convicted of a felony violation of article 57 of chapter 21

1 application of a specific requirement of rules and regulations promulgated
 2 under paragraph (1), unless the state fire marshal determines that the
 3 condition, structure or activity that is or would be in noncompliance with
 4 such requirement would constitute a distinct hazard to life or property. Any
 5 such exemption shall be granted only upon written request of a registrant
 6 or applicant for registration that clearly demonstrates that enforcement of
 7 a specific requirement of a rule and regulation will cause unnecessary
 8 hardship as determined by the state fire marshal.

9 (j) The Kansas department of agriculture and the state fire marshal
 10 shall coordinate with one another, including providing any requested
 11 information from the other; regarding industrial hemp licensees, hemp
 12 processors and hemp processor applicants necessary for the enforcement
 13 of any laws or rules and regulations relating to industrial hemp.

14 (k) This section shall be a part of and supplemental to the
 15 commercial industrial hemp act, K.S.A. 2020 Supp. 2-3901 et seq., and
 16 amendments thereto.

17 Sec. 5. K.S.A. 2020 Supp. 2-3903 and 2-3907 are hereby repealed.

18 Sec. 6. This act shall take effect and be in force from and after its
 19 publication in the Kansas register.

INSERT ATTACHMENT

2-3901,

and 2-3908

Renumber sections accordingly

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Sec. 3. K.S.A. 2020 Supp. 2-3901 is hereby amended to read as follows: 2-3901. (a) K.S.A. 2020 Supp. 2-3901 et seq., and amendments thereto, shall be known and may be cited as the commercial industrial hemp act.

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

(1) "Commercial" means the cultivation or production of industrial hemp for purposes other than research as authorized under K.S.A. 2020 Supp. 2-3906, and amendments thereto.

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

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

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

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

(A) Destruction; or

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

(4) "Hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption and ~~authorized seed or clone plants for cultivation, if the seeds originate from industrial hemp varieties~~ any extract from industrial hemp intended for further processing.

(5) "Hemp producer" means any individual, licensed or otherwise, engaging in the cultivation or production of industrial hemp for commercial purposes pursuant to K.S.A. 2020 Supp. 2-3906, and amendments thereto.

(6) "Hemp processor" means a person registered under K.S.A. 2020 Supp. 2-3907, and amendments thereto, to process and manufacture industrial hemp and hemp products.

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

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

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

(10) "State educational institution" means the university of Kansas, Kansas state university, Wichita state university, Emporia state university, Pittsburg state university and Fort Hays state university.

(11) "Authorized seed or clone plants" means a source of industrial hemp seeds or clone plants that:

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

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

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

Sec. 6. K.S.A. 2020 Supp. 2-3908 is hereby amended to read as follows: 2-3908. **2-3908. Unlawful hemp products; penalties; exceptions.** (a) (1) It shall be unlawful for any of the following hemp products to be manufactured, marketed, sold or distributed by any person in the state of Kansas:

- (A) Cigarettes containing industrial hemp;
- (B) cigars containing industrial hemp;
- (C) chew, dip or other smokeless material containing industrial hemp;
- (D) teas containing industrial hemp;
- (E) liquids, solids or gases containing industrial hemp for use in vaporizing devices; and

(F) any other hemp product intended for human or animal consumption containing any ingredient derived from industrial hemp that is prohibited pursuant to the Kansas food, drug and cosmetic act, K.S.A. 65-636 et seq., and amendments thereto, and the commercial feeding stuffs act, K.S.A. 2-1001 et seq., and amendments thereto. This subparagraph shall not otherwise prohibit the use of any such ingredient, including cannabidiol oil, in such hemp products.

(2) As used in this subsection:

(A) "Human or animal consumption" means:

- (i) Ingested orally; or
- (ii) applied by any means such that an ingredient derived from industrial hemp enters the human or animal body.

(B) "Intended for human or animal consumption" means:

- (i) Designed by the manufacturer for human or animal consumption;
- (ii) marketed for human or animal consumption; or
- (iii) distributed with the intent that it be used for human or animal consumption.

(b) (1) It shall be unlawful for any of the following hemp products to be marketed, sold or distributed to any person in Kansas who is not registered as a hemp processor pursuant to K.S.A. 2020 Supp. 2-3907, and amendments thereto, or who does not possess a license by the Kansas department of agriculture under any commercial plan established pursuant to K.S.A. 2020 Supp. 2-3906, and amendments thereto, or the research program established pursuant to K.S.A. 2020 Supp. 2-3902, and amendments thereto:

- ~~(1)~~ (A) Industrial hemp buds;
- ~~(2)~~ (B) ground industrial hemp floral material; ~~or~~
- ~~(3)~~ (C) ground industrial hemp leaf material; ~~or~~
- (D) any extract from industrial hemp with a delta-9 tetrahydrocannabinol concentration greater than 0.3% that will be further processed.

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(2) No license shall be required for the transport of hemp products described in paragraph (1) if such products are transported between hemp producers and hemp processors or between more than one hemp processor. Any such transportation of industrial hemp shall be subject to rules and regulations promulgated by the state fire marshal pursuant to this act.

(c) (1) Upon a first conviction for a violation of this section, a person shall be guilty of a class A nonperson misdemeanor.

(2) On a second or subsequent conviction for a violation of this section, a person shall be guilty of a severity level 9, nonperson felony.

(d) Nothing in this section shall prohibit:

(1) The use of any hemp product for research purposes by a state educational institution or affiliated entity; or

(2) the production, use or sale of any hemp product that is otherwise not prohibited by state or federal law.

(e) This section shall be a part of and supplemental to the commercial industrial hemp act, K.S.A. 2020 Supp. 2-3901 et seq., and amendments thereto.