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MEMORANDUM

To: House Committee on Commerce, Labor and Economic Development
From: Charles Reimer, Assistant Revisor of Statutes
Date: 2/15/2017
Subject: HB 2182

The federal Agricultural Act of 2014 permits states to authorize their institutions of higher education or the state department of agriculture to grow or cultivate industrial hemp for purposes of agricultural or academic research or for programs to study the growth, cultivation or marketing of industrial hemp. See 7 U.S.C.A. § 5940 (West), attached. Federal law currently limits states to authorizing institutions of higher education or their department of agriculture to cultivate or research industrial hemp.

HB 2182 authorizes Kansas higher education institutions that offer a baccalaureate or post-graduate program in agricultural science to cultivate and conduct research on industrial hemp. The Department of Agriculture, if in accordance with federal law, could license any individual or entity, including an institution of higher education, to grow industrial hemp. In addition, the Department, if in accordance with federal law, could license a distributor or processor of industrial hemp. The Secretary of Agriculture may charge fees for administration and is authorized to adopt rules and regulations to implement the licensing program. The secretary is authorized to enter into agreements with other agencies of this state, other states or the federal government, institutions of higher education outside the state and private associations to further the purposes of the act. The secretary may also seek public or private funding from any source for that purpose.

Enforcement provisions include cancellation or rejection of applications for a license if an applicant is found not in compliance with the act or regulations upon a hearing before

the secretary. The secretary may seize industrial hemp possessed by a non-license holder. Violation of the regulations or the provisions of the act constitutes a Class C misdemeanor.

The bill provides that industrial hemp is not to be considered a controlled substance or marijuana as defined by state law, and amends K.S.A. 21-5702 to provide an exception to state criminal law. There is also a provision that protects licensees who inadvertently possess industrial hemp containing more THC than permitted under the definition of industrial hemp from prosecution under state law.

United States Code Annotated
Title 7. Agriculture
Chapter 88. Research
Subchapter VII. Miscellaneous Research Provisions

7 U.S.C.A. § 5940

§ 5940. Legitimacy of industrial hemp research

Effective: October 1, 2016

Currentness

(a) In general

Notwithstanding the Controlled Substances Act (21 U.S.C. 801 et seq.), chapter 81 of Title 41, or any other Federal law, an institution of higher education (as defined in section 1001 of Title 20) or a State department of agriculture may grow or cultivate industrial hemp if--

(1) the industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and

(2) the growing or cultivating of industrial hemp is allowed under the laws of the State in which such institution of higher education or State department of agriculture is located and such research occurs.

(b) Definitions

In this section:

(1) Agricultural pilot program

The term "agricultural pilot program" means a pilot program to study the growth, cultivation, or marketing of industrial hemp--

(A) in States that permit the growth or cultivation of industrial hemp under the laws of the State; and

(B) in a manner that--

(i) ensures that only institutions of higher education and State departments of agriculture are used to grow or cultivate industrial hemp;

(ii) requires that sites used for growing or cultivating industrial hemp in a State be certified by, and registered with, the State department of agriculture; and

(iii) authorizes State departments of agriculture to promulgate regulations to carry out the pilot program in the States in accordance with the purposes of this section.

(2) Industrial hemp

The term “industrial hemp” means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(3) State department of agriculture

The term “State department of agriculture” means the agency, commission, or department of a State government responsible for agriculture within the State.

CREDIT(S)

(Pub.L. 113-79, Title VII, § 7606, Feb. 7, 2014, 128 Stat. 912; Pub.L. 114-95, Title IX, § 9215(f), Dec. 10, 2015, 129 Stat. 2166.)

Notes of Decisions (4)

7 U.S.C.A. § 5940, 7 USCA § 5940

Current through P.L. 114-316. Also includes P.L. 114-318 to 114-321, 114-323 to 114-327, 115-1 and 115-2. Title 26 current through 115-3.