

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.
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 of the Kansas Statutes Annotated, and amendments thereto, or a
2 substantially similar offense in another jurisdiction, within the 10 years
3 immediately preceding submission of such criminal history record check.
4 The department is authorized to submit the fingerprints to the Kansas
5 bureau of investigation and the federal bureau of investigation for a state
6 and national criminal history record check.

7 (2) Local and state law enforcement officers and agencies shall assist
8 in the taking and processing of fingerprints of such employee or agent of
9 the department. Local law enforcement officers and agencies may charge a
10 fee as reimbursement for expenses incurred in the taking and processing of
11 fingerprints under this subsection. The department shall pay the costs of
12 fingerprinting and the state and national criminal history record check.

13 (e) The department and the appropriate state or local law enforcement
14 agency may seek reimbursement from any individual licensed under the
15 commercial industrial hemp act for any costs incurred in conducting
16 effective disposal of industrial hemp.

17 (f) The department shall have no authority to conduct effective
18 disposal for any industrial hemp or cannabis plant produced by individuals
19 not licensed under the commercial industrial hemp act.

20 (g) Nothing in this section shall limit the jurisdiction or authority of
21 state or local law enforcement to enforce article 57 of chapter 21 of the
22 Kansas Statutes Annotated, and amendments thereto.

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

26 New Sec. 2. In addition to any other remedy that the state fire
27 marshal may exercise pursuant to the Kansas fire prevention code, K.S.A.
28 31-132 et seq., and amendments thereto, the state fire marshal may issue a
29 stop sale, use or removal order whenever the state fire marshal reasonably
30 believes that hemp products are being produced, sold or distributed in
31 violation of the commercial industrial hemp act or any rules and
32 regulations promulgated thereunder. No stop sale, use or removal order
33 shall be valid for more than seven calendar days. No person who has been
34 issued a stop sale, use or removal order shall process, sell, distribute, use
35 or remove industrial hemp, hemp products or hemp waste until any such
36 stop sale, use or removal order is revoked in writing by the state fire
37 marshal.

38 Sec. 3. K.S.A. 2020 Supp. 2-3903 is hereby amended to read as
39 follows: 2-3903. (a) The alternative crop research act licensing fee fund
40 created in the state treasury shall be renamed the commercial industrial
41 hemp act licensing fee fund and continue to be administered by the
42 secretary of agriculture. All expenditures from the commercial industrial
43 hemp act licensing fee fund shall be made in accordance with

1 appropriation acts upon warrants of the director of accounts and reports
2 issued pursuant to vouchers signed by the secretary of agriculture or the
3 secretary's designee.

4 (b) *Except as provided in K.S.A. 2020 Supp. 2-3907, and amendments*
5 *thereto*, licensing and renewal fees shall be established pursuant to rules
6 and regulations adopted by the secretary under the commercial industrial
7 hemp act. The amounts received for such fees shall be deposited in the
8 state treasury in accordance with K.S.A. 75-4215, and amendments
9 thereto, and shall be credited to the commercial industrial hemp act
10 licensing fee fund.

11 Sec. 4. K.S.A. 2020 Supp. 2-3907 is hereby amended to read as
12 follows: 2-3907. (a) ~~The Kansas department of agriculture~~ *state fire*
13 *marshal* shall create and maintain a registry of all hemp processors
14 operating within the state of Kansas.

15 (b) Any person engaging in the processing of industrial hemp shall
16 register annually with ~~the secretary of agriculture~~ *state fire marshal* prior
17 to processing industrial hemp, ~~except as provided in subsection (f).~~

18 (c) Registration shall expire annually on ~~April~~ *June* 30. A registration
19 fee, not to exceed ~~\$200~~ *\$1,000*, shall be established pursuant to rules and
20 regulations adopted by ~~the secretary~~ *state fire marshal*.

21 (d) Any person required to register as a hemp processor pursuant to
22 this section shall submit an annual registration application on a form
23 provided by ~~the secretary~~ *state fire marshal* that shall include, at a
24 minimum:

25 (1) The full legal name, date of birth, address and telephone number
26 of the applicant. If the applicant is not an individual, the same information
27 shall also be provided for all owners and the individual responsible for all
28 industrial hemp processing and related activities performed by the
29 applicant;

30 (2) the physical location of any premises that will serve as a part of
31 the applicant's industrial hemp processing operations;

32 (3) a brief description of the industrial hemp processing methods,
33 activities and products planned for production; and

34 (4) certification that such applicant has fully complied with the
35 fingerprinting and criminal history record check requirements contained in
36 this section, if applicable. Any such applicant who provides a false
37 statement of compliance with such requirements shall be guilty of a class
38 C nonperson misdemeanor.

39 (e) ~~The Kansas department of agriculture~~ *state fire marshal* shall
40 provide an updated list of all hemp processors to the Kansas bureau of
41 investigation and to the county sheriff in each county where a hemp
42 processor is located as often as is reasonably required or requested.

43 (f) ~~No hemp processor who is licensed under K.S.A. 2020 Supp. 2-~~

1 3902, and amendments thereto, shall be required to register pursuant to
2 this section, but the secretary shall include such hemp processors in the list
3 of registered hemp processors maintained by the Kansas department of
4 agriculture pursuant to this section.

5 (g) Fees collected pursuant to this section shall be remitted to the
6 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
7 amendments thereto. Upon receipt of each such remittance, the state
8 treasurer shall deposit the entire amount in the state treasury to the credit
9 of the commercial industrial hemp act licensing ~~fire marshal~~ fee fund.

10 (h)(g) Except as provided in subsection (f), It shall be unlawful for
11 any person to operate as a hemp processor without valid registration.(i)
12 (1) Upon a first conviction for a violation of *this* subsection (h), a
13 person shall be guilty of a class A nonperson misdemeanor.(2) On a
14 second or subsequent conviction for a violation of *this* subsection (h), a
15 person shall be guilty of a severity level 9, nonperson felony.

16 (j) (1) A registered hemp processor, or an applicant to become a
17 registered hemp processor, shall request the Kansas bureau of investigation
18 to conduct a state and national criminal history record check on any
19 individual employed or seeking employment under such registered hemp
20 processor or applicant who would be engaged in extraction of
21 cannabinoids, including through the disposal of cannabinoids from
22 industrial hemp, pursuant to K.S.A. 2020 Supp. 2-3909, and amendments
23 thereto. The request for a state and national criminal history record check
24 shall include the following:

25 (A) The individual's fingerprints; and

26 (B) a copy of a completed and signed statement furnished by the
27 hemp processor that includes:

28 (i) A waiver permitting the hemp processor to request and receive a
29 criminal history record check for the purpose of determining the
30 individual's qualification and fitness to process industrial hemp;

31 (ii) the name, address and date of birth of the individual as it appears
32 on a valid identification document;

33 (iii) a disclosure of whether or not the individual has ever been
34 convicted of or is the subject of pending charges for a criminal offense
35 and, if convicted, a description of the crime and the result of the
36 conviction; and

37 (iv) a notice to the individual that they are entitled to obtain a copy of
38 the criminal history record check to challenge the accuracy and
39 completeness of any information contained in any such report before any
40 final determination is made by the hemp processor.

41 (2) A registered hemp processor, or an applicant to become a
42 registered hemp processor, shall require such individual to be fingerprinted
43 and to submit the fingerprints to the Kansas bureau of investigation and

1 ~~the federal bureau of investigation for a state and national criminal history~~
2 ~~record check. Such hemp processor or applicant shall use the fingerprints~~
3 ~~to identify the individual and to determine whether the individual has a~~
4 ~~record of criminal history in this state or other jurisdictions or countries.~~
5 ~~The hemp processor may use the information obtained from the~~
6 ~~fingerprints and such state and national criminal history record checks in~~
7 ~~the official determination of the qualifications and fitness of the individual~~
8 ~~to process industrial hemp.~~

9 *(h) (1) The state fire marshal shall require all individuals applying*
10 *for a hemp processor registration who seek to engage in the extraction of*
11 *cannabinoids from industrial hemp, including the disposal of such*
12 *cannabinoids, pursuant to the commercial industrial hemp act to be*
13 *fingerprinted and submit to a state and national criminal history record*
14 *check. The state fire marshal may require individuals who are current*
15 *employees or applying to be employees of a hemp processor to be*
16 *fingerprinted and submit to a state and national criminal history record*
17 *check. The fingerprints shall be used to identify the individual and to*
18 *determine whether the individual has a record of criminal history in*
19 *Kansas or any other jurisdiction. The state fire marshal is authorized to*
20 *submit the fingerprints to the Kansas bureau of investigation and the*
21 *federal bureau of investigation for a state and national criminal history*
22 *record check. The state fire marshal may use the information obtained*
23 *from fingerprinting and the criminal history record check for purposes of*
24 *verifying the identification of the individual and for making an official*
25 *determination of the qualification and fitness of the individual to process*
26 *industrial hemp pursuant to this act and rules and regulations*
27 *promulgated hereunder. Disclosure or use of any information received by*
28 *the hemp processor for any purpose other than the purposes provided for*
29 *in the commercial industrial hemp act shall be a class A nonperson*
30 *misdemeanor and shall constitute grounds for removal from office or*
31 *termination of employment.*

32 ~~(3) Local and state law enforcement officers and agencies shall assist~~
33 ~~the hemp processor in taking and processing such individual's fingerprints~~
34 ~~as authorized by this section.~~

35 ~~(4) The Kansas bureau of investigation shall release all records of the~~
36 ~~individual's adult convictions and adult convictions from another state,~~
37 ~~jurisdiction or country, to the hemp processor to make a final~~
38 ~~determination of the qualification of such individual to process industrial~~
39 ~~hemp.~~

40 ~~(5)(2) An individual who has been convicted of a felony violation of~~
41 ~~article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments~~
42 ~~thereto, or a substantially similar offense in another jurisdiction, within the~~
43 ~~immediately preceding 10 years, shall be disqualified from processing~~

1 industrial hemp under this section.

2 ~~(6) A hemp processor shall be solely responsible for making any~~
3 ~~determination that an individual's criminal history record shows that such~~
4 ~~individual has been convicted of a crime that bears upon the fitness of such~~
5 ~~individual to extract cannabinoids from industrial hemp. This section does~~
6 ~~not require the Kansas bureau of investigation to make such a~~
7 ~~determination on behalf of any hemp processor.~~

8 ~~(7) The Kansas bureau of investigation may charge a reasonable fee~~
9 ~~for conducting a criminal history record check.~~

10 ~~(8) A registered hemp processor, or an applicant to become a~~
11 ~~registered hemp processor, shall pay the costs of fingerprinting and the~~
12 ~~state and national criminal history record checks for individuals seeking~~
13 ~~employment under such hemp processor or applicant.~~

14 ~~(k) The secretary~~

15 ~~(3) The state fire marshal may deny registration to any individual~~
16 ~~who has violated subsection (g) or any other provision of the commercial~~
17 ~~industrial hemp act.~~

18 ~~(4) The Kansas bureau of investigation may charge a reasonable fee~~
19 ~~for conducting a criminal history record check.~~

20 ~~(5) The individual seeking authorization to extract or dispose of~~
21 ~~cannabinoids from industrial hemp pursuant to this section shall pay the~~
22 ~~costs of fingerprinting and the state and national criminal history record~~
23 ~~check.~~

24 ~~(6) Local and state law enforcement officers and agencies shall assist~~
25 ~~in taking and processing an individual's fingerprints as authorized by this~~
26 ~~section.~~

27 ~~(i) (1) The state fire marshal shall promulgate rules and regulations to~~
28 ~~carry out the provisions of this section, including, but not limited to, rules~~
29 ~~and regulations on:~~

30 ~~(A) The denial, conditioning, renewal or revocation of registration;~~

31 ~~(B) the creation of multiple classes of registrations based upon the~~
32 ~~scope of hemp processing activities of an applicant;~~

33 ~~(C) construction and safety standards for processing facilities;~~

34 ~~(D) security measures;~~

35 ~~(E) inventory control;~~

36 ~~(F) maintenance of records;~~

37 ~~(G) access to and inspection of records and processing facilities by~~
38 ~~the state fire marshal and law enforcement agencies;~~

39 ~~(H) the collection and disposal of any cannabinoids extracted during~~
40 ~~the processing of industrial hemp that cannot be lawfully sold in this state;~~
41 ~~and~~

42 ~~(I) the transportation of industrial hemp or hemp products.~~

43 ~~(2) The state fire marshal may grant an exemption from the~~

1 *application of a specific requirement of rules and regulations promulgated*
2 *under paragraph (I), 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.