

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

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. **2-3901**, 2-3903 ~~and~~, 2-3907 **and 2-3908** and repealing the
7 existing sections.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

24 (A) Taking temporary possession of the industrial hemp;

25 (B) destroying the industrial hemp; or

26 (C) supervising and directing any appropriate method of effective
27 disposal.

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

31 (d) (1) The secretary may require any employee or agent of the
32 department who participates in the effective disposal of industrial hemp to

1 be fingerprinted and to submit to a state and national criminal history
2 record check annually. The secretary may use the information obtained
3 from fingerprinting and the criminal history record check to verify the
4 identity of the employee or agent and determine whether the employee or
5 agent has been convicted of a felony violation of article 57 of chapter 21
6 of the Kansas Statutes Annotated, and amendments thereto, or a
7 substantially similar offense in another jurisdiction, within the 10 years
8 immediately preceding submission of such criminal history record check.
9 The department is authorized to submit the fingerprints to the Kansas
10 bureau of investigation and the federal bureau of investigation for a state
11 and national criminal history record check.

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

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

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

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

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

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

43 ***Sec. 3. K.S.A. 2020 Supp. 2-3901 is hereby amended to read as***

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

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

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

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

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

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

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

18 (A) *Destruction; or*

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

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

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

33 (6) *"Hemp processor" means a person registered under K.S.A.*
34 *2020 Supp. 2-3907, and amendments thereto, to process and*
35 *manufacture industrial hemp and hemp products.*

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

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

43 (9) *"Seed research" means research conducted to develop or*

1 *recreate better strains of industrial hemp, particularly for the purpose of*
2 *seed production.*

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

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

8 *(A) Has been certified by a certifying agency, as defined by K.S.A.*
9 *2-1415, and amendments thereto;*

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

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

21 ~~Sec. 3.~~ 4. K.S.A. 2020 Supp. 2-3903 is hereby amended to read as
22 follows: 2-3903. (a) The alternative crop research act licensing fee fund
23 created in the state treasury shall be renamed the commercial industrial
24 hemp act licensing fee fund and continue to be administered by the
25 secretary of agriculture. All expenditures from the commercial industrial
26 hemp act licensing fee fund shall be made in accordance with
27 appropriation acts upon warrants of the director of accounts and reports
28 issued pursuant to vouchers signed by the secretary of agriculture or the
29 secretary's designee.

30 (b) *Except as provided in K.S.A. 2020 Supp. 2-3907, and amendments*
31 *thereto*, licensing and renewal fees shall be established pursuant to rules
32 and regulations adopted by the secretary under the commercial industrial
33 hemp act. The amounts received for such fees shall be deposited in the
34 state treasury in accordance with K.S.A. 75-4215, and amendments
35 thereto, and shall be credited to the commercial industrial hemp act
36 licensing fee fund.

37 ~~Sec. 4.~~ 5. K.S.A. 2020 Supp. 2-3907 is hereby amended to read as
38 follows: 2-3907. (a) ~~The Kansas department of agriculture~~ *state fire*
39 *marshal* shall create and maintain a registry of all hemp processors
40 operating within the state of Kansas.

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

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

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

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

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

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

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

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

26 (f) ~~No hemp processor who is licensed under K.S.A. 2020 Supp. 2-~~
27 ~~3902, and amendments thereto, shall be required to register pursuant to~~
28 ~~this section, but the secretary shall include such hemp processors in the list~~
29 ~~of registered hemp processors maintained by the Kansas department of~~
30 ~~agriculture pursuant to this section.~~

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

36 (h)(g) ~~Except as provided in subsection (f),~~ It shall be unlawful for
37 any person to operate as a hemp processor without valid registration.~~(i)~~
38 ~~(1)~~— Upon a first conviction for a violation of *this* subsection~~(h)~~, a
39 person shall be guilty of a class A nonperson misdemeanor.~~(2)~~— On a
40 second or subsequent conviction for a violation of *this* subsection~~(h)~~, a
41 person shall be guilty of a severity level 9, nonperson felony.

42 (j) ~~(1) A registered hemp processor, or an applicant to become a~~
43 ~~registered hemp processor, shall request the Kansas bureau of investigation~~

1 to conduct a state and national criminal history record check on any
2 individual employed or seeking employment under such registered hemp
3 processor or applicant who would be engaged in extraction of
4 cannabinoids, including through the disposal of cannabinoids from
5 industrial hemp, pursuant to K.S.A. 2020 Supp. 2-3909, and amendments
6 thereto. The request for a state and national criminal history record check
7 shall include the following:-

8 (A) ~~The individual's fingerprints; and~~

9 (B) ~~a copy of a completed and signed statement furnished by the~~
10 ~~hemp processor that includes:~~

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

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

16 (iii) ~~a disclosure of whether or not the individual has ever been~~
17 ~~convicted of or is the subject of pending charges for a criminal offense~~
18 ~~and, if convicted, a description of the crime and the result of the~~
19 ~~conviction; and~~

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

24 (2) ~~A registered hemp processor, or an applicant to become a~~
25 ~~registered hemp processor, shall require such individual to be fingerprinted~~
26 ~~and to submit the fingerprints to the Kansas bureau of investigation and~~
27 ~~the federal bureau of investigation for a state and national criminal history~~
28 ~~record check. Such hemp processor or applicant shall use the fingerprints~~
29 ~~to identify the individual and to determine whether the individual has a~~
30 ~~record of criminal history in this state or other jurisdictions or countries.~~
31 ~~The hemp processor may use the information obtained from the~~
32 ~~fingerprints and such state and national criminal history record checks in~~
33 ~~the official determination of the qualifications and fitness of the individual~~
34 ~~to process industrial hemp.~~

35 (h) (1) *The state fire marshal shall require all individuals applying*
36 *for a hemp processor registration who seek to engage in the extraction of*
37 *cannabinoids from industrial hemp, including the disposal of such*
38 *cannabinoids, pursuant to the commercial industrial hemp act to be*
39 *fingerprinted and submit to a state and national criminal history record*
40 *check. The state fire marshal may require individuals who are current*
41 *employees or applying to be employees of a hemp processor to be*
42 *fingerprinted and submit to a state and national criminal history record*
43 *check. The fingerprints shall be used to identify the individual and to*

1 *determine whether the individual has a record of criminal history in*
2 *Kansas or any other jurisdiction. The state fire marshal is authorized to*
3 *submit the fingerprints to the Kansas bureau of investigation and the*
4 *federal bureau of investigation for a state and national criminal history*
5 *record check. The state fire marshal may use the information obtained*
6 *from fingerprinting and the criminal history record check for purposes of*
7 *verifying the identification of the individual and for making an official*
8 *determination of the qualification and fitness of the individual to process*
9 *industrial hemp pursuant to this act and rules and regulations*
10 *promulgated hereunder. Disclosure or use of any **criminal history***
11 *information received by the hemp processor for any purpose other than the*
12 *purposes provided for in the commercial industrial hemp act shall be a*
13 *class A nonperson misdemeanor and shall constitute grounds for removal*
14 *from office or termination of employment.*

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

18 ~~(4) The Kansas bureau of investigation shall release all records of the~~
19 ~~individual's adult convictions and adult convictions from another state,~~
20 ~~jurisdiction or country, to the hemp processor to make a final~~
21 ~~determination of the qualification of such individual to process industrial~~
22 ~~hemp.~~

23 (5)(2) An individual who has been convicted of a felony violation of
24 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
25 thereto, or a substantially similar offense in another jurisdiction, within the
26 immediately preceding 10 years, shall be disqualified from processing
27 industrial hemp under this section.

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

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

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

40 ~~(k) The secretary~~

41 (3) *The state fire marshal may deny registration to any individual*
42 *who has violated subsection (g) or any other provision of the commercial*
43 *industrial hemp act.*

1 (4) *The Kansas bureau of investigation may charge a reasonable fee*
2 *for conducting a criminal history record check.*

3 (5) *The individual seeking authorization to extract or dispose of*
4 *cannabinoids from industrial hemp pursuant to this section shall pay the*
5 *costs of fingerprinting and the state and national criminal history record*
6 *check.*

7 (6) *Local and state law enforcement officers and agencies shall assist*
8 *in taking and processing an individual's fingerprints as authorized by this*
9 *section.*

10 (i) (1) *The state fire marshal shall promulgate rules and regulations to*
11 *carry out the provisions of this section, including, but not limited to, rules*
12 *and regulations on:*

13 (A) *The denial, conditioning, renewal or revocation of registration;*

14 (B) *the creation of multiple classes of registrations based upon the*
15 *scope of hemp processing activities of an applicant;*

16 (C) *construction and safety standards for processing facilities;*

17 (D) *security measures;*

18 (E) *inventory control;*

19 (F) *maintenance of records;*

20 (G) *access to and inspection of records and processing facilities by*
21 *the state fire marshal and law enforcement agencies;*

22 (H) *the collection and disposal of any cannabinoids extracted during*
23 *the processing of industrial hemp that cannot be lawfully sold in this state;*
24 *and*

25 (I) *the transportation of industrial hemp or hemp products.*

26 (2) *The state fire marshal may grant an exemption from the*
27 *application of a specific requirement of rules and regulations promulgated*
28 *under paragraph (1), unless the state fire marshal determines that the*
29 *condition, structure or activity that is or would be in noncompliance with*
30 *such requirement would constitute a distinct hazard to life or property. Any*
31 *such exemption shall be granted only upon written request of a registrant*
32 *or applicant for registration that clearly demonstrates that enforcement of*
33 *a specific requirement of a rule and regulation will cause unnecessary*
34 *hardship as determined by the state fire marshal.*

35 (j) *The Kansas department of agriculture and the state fire marshal*
36 *shall coordinate with one another, including providing any requested*
37 *information from the other, regarding industrial hemp licensees, hemp*
38 *processors and hemp processor applicants necessary for the enforcement*
39 *of any laws or rules and regulations relating to industrial hemp.*

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

43 ***Sec. 6. K.S.A. 2020 Supp. 2-3908 is hereby amended to read as***

1 follows: 2-3908. (a) (1) It shall be unlawful for any of the following
 2 hemp products to be manufactured, marketed, sold or distributed by any
 3 person in the state of Kansas:

4 (A) Cigarettes containing industrial hemp;

5 (B) cigars containing industrial hemp;

6 (C) chew, dip or other smokeless material containing industrial
 7 hemp;

8 (D) teas containing industrial hemp;

9 (E) liquids, solids or gases containing industrial hemp for use in
 10 vaporizing devices; and

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

18 (2) As used in this subsection:

19 (A) "Human or animal consumption" means:

20 (i) Ingested orally; or

21 (ii) applied by any means such that an ingredient derived from
 22 industrial hemp enters the human or animal body.

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

24 (i) Designed by the manufacturer for human or animal
 25 consumption;

26 (ii) marketed for human or animal consumption; or

27 (iii) distributed with the intent that it be used for human or animal
 28 consumption.

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

37 (+) (A) Industrial hemp buds;

38 (~~2~~) (B) ground industrial hemp floral material; ~~or~~

39 (~~3~~) (C) ground industrial hemp leaf material; or

40 (D) any extract from industrial hemp with a delta-9
 41 tetrahydrocannabinol concentration greater than 0.3% that will be further
 42 processed.

43 (2) No license {or registration} shall be required for the transport of

1 *hemp products described in paragraph (1) if such products are*
2 *transported between hemp producers and hemp processors or between*
3 *more than one hemp processor. Any such transportation of ~~industrial~~ hemp*
4 *{products} shall be subject to rules and regulations promulgated by the*
5 *state fire marshal pursuant to this act.*

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

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

10 ***(d) Nothing in this section shall prohibit:***

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

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

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

18 ~~Sec. 5. 7. K.S.A. 2020 Supp. 2-3901, 2-3903 ~~and~~, 2-3907 and 2-3908~~
19 ~~are hereby repealed.~~

20 ~~Sec. 6. 8. This act shall take effect and be in force from and after its~~
21 ~~publication in the Kansas register.~~