

## Substitute for HOUSE BILL No. 2168

By Committee on Agriculture and Natural Resources

1-25

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1 AN ACT concerning agriculture; relating to industrial hemp; reducing  
2 maximum license and registration fee amounts to \$500; amending  
3 K.S.A. 2-3906 and 2-3907 and repealing the existing sections.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2-3906 is hereby amended to read as follows: 2-  
7 3906. (a) The Kansas department of agriculture, in consultation with the  
8 governor and attorney general, shall submit a plan to the United States  
9 department of agriculture under which the Kansas department of  
10 agriculture will monitor and regulate the commercial production of  
11 industrial hemp within the state in accordance with 7 U.S.C. § 1621 et seq.  
12 and any rules and regulations adopted thereunder.

13 (b) Such plan shall include the following:

14 (1) A procedure to maintain relevant information regarding land on  
15 which industrial hemp is produced, including a legal description of the  
16 land, for a period of not less than three calendar years;

17 (2) a procedure for testing, using post-decarboxylation or other  
18 similarly reliable methods, the delta-9 tetrahydrocannabinol concentration  
19 levels of industrial hemp produced;

20 (3) a procedure for the effective disposal of industrial hemp and hemp  
21 products that are found to be in violation of this act;

22 (4) any licensing requirements or other rules and regulations deemed  
23 necessary by the Kansas department of agriculture for the proper  
24 monitoring and regulation of industrial hemp cultivation and production  
25 for commercial purposes, including, but not limited to:

26 (A) Fees for licenses, license renewals and other necessary expenses  
27 to defray the cost of implementing and operating the plan on an ongoing  
28 basis; and

29 (B) standards for authorized seed or clone plants;

30 (5) a procedure for the creation of documentation that any person in  
31 possession of unprocessed industrial hemp may use to prove to any law  
32 enforcement officer that such industrial hemp was lawfully grown under  
33 this section;

34 (6) a procedure for conducting annual inspections of, at a minimum, a  
35 random sample of hemp producers to verify that industrial hemp is not  
36 produced in violation of this act; and

1 (7) any other procedures necessary to meet the requirements set forth  
2 in 7 U.S.C. § 1621 et seq. and any rules and regulations adopted  
3 thereunder.

4 (c) (1) A hemp producer who negligently violates this section or any  
5 rules and regulations adopted hereunder shall not be subject to any state or  
6 local criminal enforcement action, but shall comply with the following  
7 corrective actions as applicable:

8 (A) A reasonable date by which the hemp producer shall correct the  
9 negligent violation; and

10 (B) a requirement that the hemp producer shall periodically report to  
11 the Kansas department of agriculture on the hemp producer's compliance  
12 with this section and rules and regulations adopted hereunder, for a period  
13 of not less than the next two calendar years.

14 (2) A hemp producer who negligently violates this section or any  
15 rules and regulations adopted hereunder three times in a five-year period  
16 shall be ineligible to produce industrial hemp for a period of five years  
17 beginning on the date of the third violation.

18 (3) The Kansas department of agriculture shall immediately report  
19 any violation by a hemp producer with a greater culpable mental state than  
20 negligence to the attorney general and such hemp producer shall not be  
21 subject to the exemption in subsection (c)(1).

22 (d) Any individual otherwise eligible to become a licensed hemp  
23 producer shall not be eligible to produce industrial hemp if such individual  
24 has submitted any materially false information in any application to  
25 become a licensed hemp producer.

26 (e) (1) The department shall require, as a qualification for initial or  
27 continuing licensure, all individuals seeking a license or license renewal as  
28 a hemp producer under this section to be fingerprinted and to submit to a  
29 state and national criminal history record check. The fingerprints shall be  
30 used to identify the individual and to determine whether the individual has  
31 a record of criminal history in this state or any other jurisdiction. The  
32 department is authorized to submit the fingerprints to the Kansas bureau of  
33 investigation and the federal bureau of investigation for a state and  
34 national criminal history record check. The department may use the  
35 information obtained from fingerprinting and the criminal history record  
36 check for purposes of verifying the identification of the individual and for  
37 making an official determination of the qualifications for initial or  
38 continuing licensure as a hemp producer pursuant to this section and rules  
39 and regulations promulgated hereunder. Disclosure or use of any  
40 information received by the department for any purpose other than the  
41 purposes provided for in the commercial industrial hemp act shall be a  
42 class A misdemeanor and shall constitute grounds for removal from office  
43 or termination of employment.

1 (2) An individual who has been convicted of a felony violation of  
2 article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments  
3 thereto, or a substantially similar offense in another jurisdiction, within the  
4 immediately preceding 10 years, shall be disqualified from initial or  
5 continuing licensure as a hemp producer under this section.

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

8 (4) The individual seeking a license or license renewal as a hemp  
9 producer under this section shall pay the costs of fingerprinting and the  
10 state and national criminal history record checks.

11 (f) The secretary of agriculture shall promulgate rules and regulations  
12 to implement the plan submitted to the United States department of  
13 agriculture and to otherwise effectuate the provisions of this section.

14 (g) Upon the repeal of 7 U.S.C. § 5940 or either the adoption of a  
15 federal plan by the United States department of agriculture that allows for  
16 the cultivation and production of industrial hemp for commercial purposes  
17 within the state or upon the adoption of rules and regulations by the  
18 Kansas secretary of agriculture that establish the cultivation and  
19 production of industrial hemp for commercial purposes within the state,  
20 the Kansas department of agriculture may discontinue the industrial hemp  
21 research program established pursuant to K.S.A. 2-3902, and amendments  
22 thereto.

23 (h) Any modification fee established by the department for any  
24 requested change to a license that was previously issued by the department  
25 under this section shall not exceed \$50.

26 (i) *The fee for any license issued by the secretary pursuant to this act*  
27 *shall not exceed \$500.*

28 (j) Any licensing or other fees collected pursuant to this section and  
29 any rules and regulations adopted hereunder shall be deposited in the  
30 commercial industrial hemp act licensing fee fund established by K.S.A. 2-  
31 3903, and amendments thereto, for all costs of the administration of the  
32 commercial production of industrial hemp.

33 ~~(j)~~(k) This section shall be a part of and supplemental to the  
34 commercial industrial hemp act, K.S.A. 2-3901 et seq., and amendments  
35 thereto.

36 Sec. 2. K.S.A. 2-3907 is hereby amended to read as follows: 2-3907.

37 (a) The state fire marshal shall create and maintain a registry of all hemp  
38 processors operating within the state of Kansas.

39 (b) Any person engaging in the processing of industrial hemp shall  
40 register annually with the state fire marshal prior to processing industrial  
41 hemp.

42 (c) Registration shall expire annually on June 30. Registration fees,  
43 ~~not to exceed \$1,000,~~ shall be established pursuant to rules and regulations

1 adopted by the state fire marshal. *Such registration fees shall not exceed*  
2 *\$500.*

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

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

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

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

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

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

24 (f) Fees collected pursuant to this section shall be remitted to the state  
25 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
26 amendments thereto. Upon receipt of each such remittance, the state  
27 treasurer shall deposit the entire amount in the state treasury to the credit  
28 of the fire marshal fee fund.

29 (g) It shall be unlawful for any person to operate as a hemp processor  
30 without valid registration. Upon a first conviction for a violation of this  
31 subsection, a person shall be guilty of a class A nonperson misdemeanor.  
32 On a second or subsequent conviction for a violation of this subsection, a  
33 person shall be guilty of a severity level 9, nonperson felony.

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

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

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

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

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

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

27 (6) Local and state law enforcement officers and agencies shall assist  
28 in taking and processing an individual's fingerprints as authorized by this  
29 section.

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

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

34 (B) the creation of multiple classes of registrations based upon the  
35 scope of hemp processing activities of an applicant;

36 (C) construction and safety standards for processing facilities;

37 (D) security measures;

38 (E) inventory control;

39 (F) maintenance of records;

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

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

1 and

2 (1) the transportation of industrial hemp or hemp products.

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

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

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

19 Sec. 3. K.S.A. 2-3906 and 2-3907 are hereby repealed.

20 Sec. 4. This act shall take effect and be in force from and after its  
21 publication in the statute book.