

SESSION OF 2018

SUPPLEMENTAL NOTE ON SENATE BILL NO. 263

As Amended by Senate Committee of the Whole

Brief*

SB 263, as amended, would enact the “Alternative Crop Research Act” (Act), which would allow the Kansas Department of Agriculture (Department), either alone or in coordination with a state institution of higher education, to grow and cultivate industrial hemp and promote the research and development of industrial hemp. The bill would allow individuals to participate in the research program under the authority of the Department. Nothing in the Act would be construed to authorize any person to violate state or federal law.

Research and Development

Research and development of industrial hemp, under the provisions of the bill, would include such things as analysis of industrial hemp growth including required soils, growing conditions, and harvest methods; research on seeds most suitable for Kansas; and market analysis to determine the potential for an industrial hemp market in Kansas.

The bill would authorize the Department to establish a pilot program in Russell County for the purpose of industrial hemp economic development and market research of industrial hemp products.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Rules and Regulations

The bill would require the Department to promulgate rules and regulations by December 31, 2018, to carry out the provisions of the bill.

The rules and regulations of the Department would include, but not be limited to, a requirement that license holders keep in their possession at all times the license to cultivate, grow, process, transport, or otherwise handle industrial hemp.

Licensure

The Department would be required to annually license program participants and maintain oversight of all industrial hemp activities. The Department would require all license holders to be fingerprinted and undergo a state and national criminal history check at the license holder's expense. The Department would be authorized to submit the fingerprints to the Kansas Bureau of Investigation (KBI), and the KBI would be able to charge a reasonable fee for conducting a criminal history record check. The Department would not issue licenses to individuals who have been convicted of felonies involving controlled substances.

Report

The bill would require the Department to report to the Legislature by January 14, 2019, the process by which the Department would allow program participants to grow and process industrial hemp in Kansas and then sell it outside of Kansas.

Other Provisions

The bill would amend KSA 2017 Supp. 65-4101, dealing with controlled substances, to clarify the definition of

“marijuana” to exclude “industrial hemp” as it would be defined in the bill.

The bill would amend KSA 2017 Supp. 21-5701, dealing with criminal law, to exclude “industrial hemp” from the definition of “marijuana.”

Finally, the bill would amend KSA 2017 Supp. 65-4105 to exclude industrial hemp from being included as a cannabinoid, its salts, isomers, or salts of its isomers.

Background

The bill was introduced by the Senate Committee on Agriculture and Natural Resources at the request of Senator Kerschen.

In the hearing before the Senate Committee, Representative Dove, Representative Johnson, and representatives of the Department and the Kansas Sierra Club testified in support of the bill. A representative of the Kansas Farm Bureau submitted written-only testimony in support of the bill. Two private citizens testified in opposition to the bill. Representatives of the Kansas Association of Police Chiefs, Kansas Sheriffs’ Association, KBI, and Russell County Economic Development and CVB, testified as neutral.

The Senate Committee adopted the following amendments:

- The first amendment revises the definition of “tetrahydrocannabinol” (THC), makes a technical amendment, requires the Department to promulgate rules and regulations with respect to the Act, and outlines the requirements for rules and regulations to require licenses for those engaged in cultivation, growth, research, oversight, study, analysis, or transportation of industrial hemp or certified seed. The amendment also requires the

Department to license prospective program participants, and to submit to fingerprinting. The amendment authorizes the Department to submit the fingerprints to the KBI for a state and national criminal background check. The amendment prevents a person from obtaining, or maintaining a license if they have a felony conviction involving a controlled substance. The amendment authorizes the KBI to charge a reasonable fee for the criminal history record check and requires the prospective program participant to pay the costs of the fingerprinting and criminal history record check;

- The second amendment allows a “grower” to grow or cultivate industrial hemp and promote the research and development of industrial hemp. The amendment also allows the Department to approve, as a grower, a person to grow or cultivate industrial hemp. For the purposes of the term “grower,” the amendment defines “person” as an individual, partnership, corporation, association, or other legal entity;
- The third amendment adds a requirement for the Department to submit a report to the Legislature, by January 14, 2019, outlining a process to allow program participants to grow and process industrial hemp, and sell industrial hemp outside Kansas;
- The fourth amendment authorizes a pilot program for the purpose of economic development and market research for industrial hemp in Russell County; and
- The fifth amendment requires the Department to develop industrial hemp rules and regulations by December 31, 2018.

The Senate Committee of the Whole adopted the following amendments:

- The first amendment deletes the words “grower” and “person” and corresponding definitions from the bill. . The amendment also replaces the word “person” with the word “individual.”
- The second amendment amends KSA 2017 Supp. 65-4101, dealing with controlled substances, to exclude “industrial hemp” from the definition of “marijuana” for the purposes of the bill.
- The third amendment amends KSA 2017 Supp. 21-5701, dealing with criminal law relative to controlled substances, to exclude “industrial hemp” from the definition of “marijuana.”
- The final amendment amends KSA 2017 Supp. 65-4105 to exclude “industrial hemp” from being included as a cannabinoid, its salts, isomers, or salts of its isomers.

The fiscal note on the original version of the bill prepared by the Division of the Budget indicates there would be no immediate or quantifiable fiscal effect. Any fiscal effect would depend on the amount of testing that may be required for THC quantification or plant DNA testing, and the number of research licenses that would be issued by the Department.