

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Agriculture** recommends **HB 2173**, be amended as recommended by the Committee on Agriculture as reported in the Journal of the House on February 22, 2019, and the bill, as printed with amendments by House Committee, be further amended on page 1, in line 35, by striking "subject to subsection (g)" and inserting "any licensing requirements or other rules and regulations deemed necessary by the Kansas department of agriculture for the proper monitoring and regulation of industrial hemp cultivation and production for commercial purposes, including, but not limited to";

On page 2, in line 2, by striking all after "that"; in line 3, by striking all before the first "to" and inserting "any person in possession of unprocessed industrial hemp may use"; by striking all in lines 4 and 5; in line 6, by striking all before the semicolon and inserting "industrial hemp was lawfully grown under this section"; in line 23, by striking "that" and inserting "who"; in line 31, by striking "person" and inserting "individual"; in line 32, by striking the colon; by striking all in lines 33 through 35; in line 36, by striking "(2)"; also in line 36, by striking "person" and inserting "individual"; in line 38, after "(e)" by inserting "(1) The department shall require, as a qualification for initial or continuing licensure, all individuals seeking a license or license renewal as a hemp producer under this section to be fingerprinted and to submit to a state and national criminal history record check. The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or any other jurisdiction. The department is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history

record check. The department may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the individual and for making an official determination of the qualifications for initial or continuing licensure as a hemp producer pursuant to this section and rules and regulations promulgated hereunder. Disclosure or use of any information received by the department for any purpose other than the purposes provided for in the commercial industrial hemp act shall be a class A misdemeanor and shall constitute grounds for removal from office or termination of employment.

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

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

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

(f)";

Also on page 2, in line 38, by striking "may" and inserting "shall";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 3, following line 22, by inserting:

"New Sec. 4. (a) (1) There is hereby established the industrial hemp regulatory commission within the Kansas department of revenue. The industrial hemp regulatory commission shall be administered under the direction of a director of the industrial hemp regulatory commission, who shall be appointed by and serve at the pleasure of the secretary of revenue. The director shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the

secretary of revenue and approved by the governor.

(2) The director of the industrial hemp regulatory commission shall be responsible for all powers, duties and functions assigned to the department of revenue under the commercial industrial hemp act.

(3) The industrial hemp regulatory commission shall adopt rules and regulations as necessary to implement and administer the provisions of the commercial industrial hemp act relating to the licensure and regulation of hemp processors and may advise and consult with the department of health and environment and the Kansas department of agriculture on such rules and regulations.

(4) The provisions of this section and any rules and regulations promulgated hereunder shall apply to any individual licensed by the Kansas department of agriculture to process, manufacture, produce or distribute industrial hemp under the research program established by K.S.A. 2018 Supp. 2-3902, and amendments thereto, except that no such individual shall be subject to the licensure application or renewal fees set forth in this section.

(b) (1) The industrial hemp regulatory commission shall establish an electronic database to store information detailing:

(A) Each license issued to any hemp processor in accordance with this section, including any modification, revocation, suspension or other action relating to the license;

(B) each individual working as an employee, agent or unpaid worker of a hemp processor;
and

(C) other information deemed necessary or appropriate by the director of the industrial hemp regulatory commission.

(2) Information in the database shall be shared with law enforcement authorities in a manner prescribed by the Kansas bureau of investigation for the purpose of verifying the validity of any identification card or license issued in accordance with the commercial industrial hemp act or the

location of any operations authorized by the commercial industrial hemp act.

(c) (1) A person may apply to the industrial hemp regulatory commission for initial or renewed licensure as a hemp processor on a form, in a manner and accompanied by a licensure fee not to exceed \$5,000 prescribed by the industrial hemp regulatory commission. Licensure as a hemp processor shall authorize the licensee to process industrial hemp into hemp products in accordance with and for the purposes set forth in this section, and to perform other acts deemed necessary and incidental thereto by the industrial hemp regulatory commission, as established in rules and regulations adopted by the industrial hemp regulatory commission.

(2) No person not in current compliance with any Kansas tax law administered by the director of taxation of the department of revenue, any tax, fee or payment administered by the department of labor or any fee or charge administered by any other state agency shall have an ownership interest in a hemp processor.

(3) An applicant shall provide the following information and documentation on an application for licensure as a hemp processor:

(A) The name, address and telephone number of the applicant;

(B) the physical location of any premises that will be operated as a part of the hemp processor's operations;

(C) documentation that the applicant is a resident of the state of Kansas;

(D) the name of each owner of any land, structure or building where any operations of the hemp processor will occur or any motor vehicle that will be used to distribute or transport industrial hemp or hemp products and each individual who will otherwise be involved with the hemp processor's operations, whether as an employee, agent or unpaid worker; and

(E) any other information required by the industrial hemp regulatory commission.

(4) (A) The industrial hemp regulatory commission shall require any individual working as an

employee, agent or unpaid worker of a hemp processor to be fingerprinted and to submit to a state and national criminal history record check. The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or any other jurisdiction. The commission is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The commission may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the individual and for making an official determination of the qualifications and fitness of the individual to work as an employee, agent or unpaid worker of the hemp processor. Disclosure or use of any information received by the commission for any purpose other than the purposes provided for in the commercial industrial hemp act shall be a class A misdemeanor and shall constitute grounds for removal from office or termination of employment.

(B) As a condition of licensure as a hemp processor under this section, an individual who has been convicted of a felony violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or a substantially similar offense in another jurisdiction, within the immediately preceding 10 years, shall be disqualified from being employed, serving as an agent or otherwise working in any manner under a hemp processor under this section.

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

(D) The individual seeking to work as an employee, agent or unpaid worker of a hemp processor shall pay the costs of fingerprinting and the state and national criminal history record checks.

(5) Within 60 calendar days of receiving any application pursuant to this section, the industrial hemp regulatory commission shall issue a decision to grant or deny licensure to the applicant as a hemp processor.

(6) If the industrial hemp regulatory commission denies initial or renewed licensure to a hemp

processor, the industrial hemp regulatory commission shall refund $\frac{1}{2}$ of the applicant's application fee or renewal fee.

(7) (A) Licensure as a hemp processor shall be effective for a period of two years. If the industrial hemp regulatory commission grants initial or renewed licensure to a hemp processor, the industrial hemp regulatory commission shall require the applicant or licensee to:

(i) Pay a licensure fee not to exceed \$5,000; and

(ii) provide satisfactory evidence that the hemp processor has obtained a surety bond in an amount required by the industrial hemp regulatory commission based on the size and actual and projected yield of the hemp processor operations, the number of facilities operated by the hemp processor and other factors established by the industrial hemp regulatory commission in rules and regulations.

(B) The industrial hemp regulatory commission shall remit all moneys from any fees under this section to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount of moneys into the state treasury to the credit of the commercial industrial hemp processor fund established by this section.

(8) The industrial hemp regulatory commission shall require any individual working as an employee, agent or unpaid worker of a hemp processor to have documentation in their possession at all times that they are engaged in the processing, manufacturing or distribution of industrial hemp or hemp products that would prove to any law enforcement officer that such individual is authorized to engage in such activities.

(9) All actions by the industrial hemp regulatory commission under this subsection shall be in accordance with the Kansas administrative procedure act and reviewable in accordance with the Kansas judicial review act.

(d) It shall be unlawful for a person to process, manufacture or distribute industrial hemp or

hemp products in violation of the provisions of this section.

(1) Upon a first conviction for a violation of subsection (d), a person shall be guilty of a class A nonperson misdemeanor and sentenced to not more than one year in confinement and fined not less than \$1,000, nor more than \$2,500.

(2) On a second conviction for a violation of subsection (d), a person shall be guilty of a severity level 9, nonperson felony and fined a sum of not less than \$10,000, nor more than \$100,000, and sentenced according to the provisions of K.S.A. 21-6804, and amendments thereto.

(3) On a third or subsequent conviction for a violation of subsection (d), a person shall be guilty of a severity level 9, nonperson felony and fined a sum of not less than \$50,000, nor more than \$100,000, and sentenced according to the provisions of K.S.A. 21-6804, and amendments thereto.

(4) The penalties provided hereunder are cumulative to the remedies or penalties, including all civil penalties, under all other laws of this state.

(e) There is hereby established in the state treasury the commercial industrial hemp processor fund. The commercial industrial hemp processor fund shall be administered by the industrial hemp regulatory commission. All expenditures from the commercial industrial hemp processor fund shall be used for costs related to hemp processor regulation and enforcement by the industrial hemp regulatory commission. All expenditures from the commercial industrial hemp processor fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the industrial hemp regulatory commission or the director's designee. All moneys received by the director of the industrial hemp regulatory commission from fees imposed by this section shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the commercial industrial hemp processor fund.

(f) This section shall be a part of and supplemental to the commercial industrial hemp act,

K.S.A. 2018 Supp. 2-3901 et seq., and amendments thereto.

New Sec. 5. (a) (1) It shall be unlawful for any of the following hemp products to be manufactured, marketed, sold or distributed by any person in the state of Kansas:

- (A) Cigarettes containing industrial hemp;
- (B) cigars containing industrial hemp;
- (C) chew, dip or other smokeless material containing industrial hemp;
- (D) teas containing industrial hemp;
- (E) liquids, solids or gases containing industrial hemp for use in vaporizing devices; and
- (F) any hemp product intended for human or animal consumption containing any ingredient

derived from industrial hemp, unless any such ingredient is generally recognized as safe under its intended conditions of use or otherwise approved by the United States food and drug administration under the federal drug and cosmetic act.

(2) As used in this subsection:

(A) "Human or animal consumption" means:

- (i) Ingested orally; or
- (ii) applied by any means such that an ingredient derived from industrial hemp enters the

human or animal body.

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

- (i) Designed by the manufacturer for human or animal consumption;
- (ii) marketed for human or animal consumption; or
- (iii) distributed with the intent that it be used for human or animal consumption.

(b) It shall be unlawful for any of the following hemp products to be marketed, sold or distributed to any person in Kansas who is not operating under a hemp processor license pursuant to this section, or any individual who does not possess a license by the Kansas department of agriculture

under any commercial plan established pursuant to section 2, and amendments thereto, or the research program established pursuant to K.S.A. 2018 Supp. 2-3902, and amendments thereto:

- (1) Industrial hemp buds;
- (2) ground industrial hemp floral material; and
- (3) ground industrial hemp leaf material.

(c) (1) Upon a first conviction for a violation of this section, a person shall be guilty of a class A nonperson misdemeanor and sentenced to not more than one year in confinement and fined not less than \$1,000, nor more than \$2,500.

(2) On a second conviction for a violation of this section, a person shall be guilty of a severity level 9, nonperson felony and fined a sum of not less than \$10,000, nor more than \$100,000, and sentenced according to the provisions of K.S.A. 21-6804, and amendments thereto.

(3) On a third or subsequent conviction for a violation of this section, a person shall be guilty of a severity level 9, nonperson felony and fined a sum of not less than \$50,000, nor more than \$100,000, and sentenced according to the provisions of K.S.A. 21-6804, and amendments thereto.

(4) The penalties provided hereunder are cumulative to the remedies or penalties, including all civil penalties, under all other laws of this state.

(d) This section shall be a part of and supplemental to the commercial industrial hemp act, K.S.A. 2018 Supp. 2-3901 et seq., and amendments thereto.

New Sec. 6. (a) (1) All solid waste, as defined in K.S.A. 65-3402, and amendments thereto, and all hazardous waste, as defined in K.S.A. 65-3430, and amendments thereto, resulting from the cultivation, production or processing of industrial hemp under the commercial industrial hemp act shall be managed in accordance with all applicable solid and hazardous waste laws and regulations and the requirements of subsection (a)(2).

- (2) (A) If any such waste can be used in the same manner as, or has the appearance of, a

controlled substance, as defined in K.S.A. 65-4101, and amendments thereto, all such waste shall be rendered unusable and unrecognizable before the waste is transported or disposed.

(B) This requirement shall not apply to waste that is managed as a hazardous waste and sent to a hazardous waste facility, as defined in K.S.A. 65-3430, and amendments thereto.

(3) For the purposes of this section, "unusable and unrecognizable" means that such waste can not be used in the same manner as, and does not have the appearance of, a controlled substance, as defined in K.S.A. 65-4101, and amendments thereto.

(b) This section shall be a part of and supplemental to the commercial industrial hemp act, K.S.A. 2018 Supp. 2-3901 et seq., and amendments thereto.";

Also on page 3, in line 29, by striking all after "(1)"; by striking all in lines 30 through 32; in line 33, by striking "(2)"; in line 43, by striking "clearing" and inserting "disposing of";

On page 4, in line 7, by striking "certified" and inserting "authorized"; also in line 7, after "seed" by inserting "or clone plants"; in line 10, by striking the first comma and inserting "or"; also in line 10, by striking ", distribution or processing"; in line 13, after "(7)" by inserting "'Hemp processor" means a person licensed under section 4, and amendments thereto, to process, manufacture and distribute industrial hemp and hemp products.

(7) ";

Also on page 4, in line 18, after "(8)" by inserting "'Person" means an individual, corporation, partnership, association, joint stock company, trust, unincorporated organization or any similar entity or any combination of the foregoing acting in concert.

(9)";

Also on page 4, following line 23, by inserting:

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

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

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

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

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 4, in line 27, by striking "certified" and inserting "authorized"; also in line 27, after "seed" by inserting "or clone plants";

On page 5, in line 9, by striking "certified" and inserting "authorized"; also in line 9, after "seed" by inserting "or clone plants"; in line 17, by striking "certified" and inserting "authorized"; also in line 17, after "seed" by inserting "or clone plants";

On page 6, in line 9, before "The" by inserting "(1) The department shall require, as a qualification for initial or continuing licensure, all individuals seeking a license or license renewal under the research program established under this section to be fingerprinted and to submit to a state and national criminal history record check. The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or any other jurisdiction. The department is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The department may use the information obtained from fingerprinting and the criminal history

record check for purposes of verifying the identification of the individual and for making an official determination of the qualifications for initial or continuing licensure pursuant to this section and rules and regulations promulgated hereunder. Disclosure or use of any information received by the department for any purpose other than the purposes provided for in this section shall be a class A misdemeanor and shall constitute grounds for removal from office or termination of employment.

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

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

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

(e)";

Also on page 6, in line 12, by striking "fingerprinting, background checks or"; in line 17, after the stricken material by inserting "Such rules and regulations shall include, but not be limited to, a requirement that license holders shall have a current license in their possession at all times that they are engaged in the cultivation, growth, research, oversight, study, analysis, transportation, processing or distribution of authorized seed or clone plants or industrial hemp pursuant to this section.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 25, in line 3, by striking all after "tetrahydrocannabinols"; by striking all in lines 4 and 5; in line 6, by striking all before the period and inserting "in any of the following:

- (A) Industrial hemp, as defined in K.S.A. 2018 Supp. 2-3901, and amendments thereto;
- (B) solid waste, as defined in K.S.A. 65-3402, and amendments thereto, and hazardous waste, as defined in K.S.A. 65-3430, and amendments thereto, if such waste is the

- result of the cultivation, production or processing of industrial hemp, as defined in K.S.A. 2018 Supp. 2-3901, and amendments thereto, and such waste contains a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis; or
- (C) hemp products, as defined in K.S.A. 2018 Supp. 2-3901, and amendments thereto, unless otherwise deemed unlawful pursuant to section 5, and amendments thereto";

And by renumbering sections accordingly; and the bill be passed as amended.

_____ Chairperson