

HOUSE BILL No. 2049

By Committee on Corrections and Juvenile Justice

1-20

1 AN ACT concerning **cannabis; relating to crimes, punishment and**
2 **criminal procedure {controlled substances}; relating to possession of**
3 **controlled substances; {authorizing hemp preparation treatments for**
4 **seizure disorders; establishing registration of patients and**
5 **preparation centers; protection from arrest, prosecution and**
6 **discrimination for authorized use; reducing criminal penalties for**
7 **possession of marijuana;}** {enacting the alternative crop research
8 **act;}** amending K.S.A. 2014 Supp. {21-5702 and} 21-5706 and
9 repealing the existing section{sections}.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 **{Section 1. The provisions of sections 1 through 11, and**
13 **amendments thereto, shall be known and may be cited as Otis's law.**

14 **Sec. 2. As used in sections 1 through 11, and amendments thereto,**
15 **unless the context requires otherwise:**

16 (a) "Cannabis" means all parts of all varieties of the plant
17 cannabis sativa L. not exceeding 3% tetrahydrocannabinol by weight.

18 (b) "Cardholder" means a patient or a designated caregiver to
19 whom the department has issued a hemp preparation registration
20 card or who has documentation that is deemed to be a hemp
21 preparation registration card.

22 (c) "Designated caregiver" means a person who:

23 (1) Is either at least 21 years of age or a parent of a patient;

24 (2) has significant responsibility for managing the well-being of a
25 patient; and

26 (3) has been approved by the department to assist a patient in
27 obtaining hemp preparations.

28 (d) "Department" means the department of health and
29 environment.

30 (e) "Hemp preparation" means:

31 (1) Cannabis plant material that is no more than 3%
32 tetrahydrocannabinol by weight; or

33 (2) an extract, mixture or preparation containing cannabis plant
34 material that is no more than 3% tetrahydrocannabinol by weight.

35 (f) "Hemp preparation center agent" means an owner, officer,
36 board member, employee, volunteer, contractor, property owner or

1 landlord of a registered hemp preparation center.

2 (g) "Medical hemp establishment" means a registered hemp
3 preparation center or a registered hemp testing laboratory.

4 (h) "Medical use" includes the acquisition, administration,
5 delivery, possession, purchase, transfer, transportation or use of hemp
6 preparations and paraphernalia relating to the administration of
7 hemp preparations to treat or alleviate a patient cardholder's
8 qualifying medical condition.

9 (i) "Parent" means a parent or legal guardian responsible for the
10 medical care of a patient under the age of 18.

11 (j) "Patient" means an individual who has been diagnosed with a
12 qualifying medical condition.

13 (k) "Physician" means a person who is licensed by the state
14 board of healing arts to practice medicine and surgery.

15 (l) "Qualifying medical condition" means a condition causing
16 seizures, including those characteristic of epilepsy.

17 (m) "Registered hemp preparation center" means an entity
18 registered pursuant to section 9, and amendments thereto, that
19 acquires, possesses, cultivates, transports and manufactures cannabis,
20 hemp preparations and related paraphernalia and transfers,
21 transports, sells, supplies or dispenses hemp preparations,
22 paraphernalia related to hemp preparations and related supplies and
23 educational materials to cardholders, visiting cardholders and other
24 registered hemp preparation centers.

25 (n) "Registered testing laboratory" means an entity registered
26 pursuant to section 9, and amendments thereto, to analyze the safety
27 and potency of hemp.

28 (o) "Registration card" means a card issued by the department
29 pursuant to section 3, and amendments thereto.

30 (p) "Testing laboratory agent" means an owner, officer, board
31 member, employee, volunteer, contractor, property owner or landlord
32 of a registered testing laboratory.

33 (q) "Written certification" means a document signed and dated
34 by a physician stating that, in the physician's professional opinion, the
35 patient may receive therapeutic or palliative benefit from the medical
36 use of hemp preparations to treat or alleviate the patient's qualifying
37 medical condition or symptoms associated with such patient's
38 qualifying medical condition.

39 (r) "Visiting cardholder" means a person who:

40 (1) Has been diagnosed with a qualifying medical condition or is
41 the parent, child, sibling, spouse, domestic partner, grandparent,
42 grandchild or personal aide of an individual who has been diagnosed
43 with a qualifying medical condition;

1 **(2) possesses a valid registration card, its equivalent or other**
2 **documentation that allows the person to possess hemp preparations in**
3 **another jurisdiction pursuant to the laws of the other state, district,**
4 **territory, commonwealth, insular possession of the United States or**
5 **country recognized by the United States;**

6 **(3) is not a resident of Kansas or has been a resident of Kansas**
7 **for less than 30 days; and**

8 **(4) has submitted any required documentation with the**
9 **department, if the department has required registration.**

10 **Sec. 3. (a) The department shall issue a hemp preparation**
11 **registration card to each individual who is over the age of 18 who:**

12 **(1) Provides the department with a written certification signed by**
13 **a physician that was issued within 90 days immediately preceding the**
14 **date of an application;**

15 **(2) pays the department a fee in an amount established by the**
16 **department pursuant to section 5, and amendments thereto; and**

17 **(3) submits an application or renewal to the department on a**
18 **form created by the department that contains:**

19 **(A) The individual's name and address;**

20 **(B) a copy of the individual's valid photo identification; and**

21 **(C) any other information the department reasonably considers**
22 **necessary to implement the provisions of this section.**

23 **(b) The department shall issue a hemp preparation registration**
24 **card to each individual who is under the age of 18 whose parent:**

25 **(1) Submits the information required of patients over the age of**
26 **18 according to subsection (a); and**

27 **(2) agrees to serve as a designated caregiver for the patient.**

28 **(c) Except as provided in subsection (d), the department shall**
29 **issue a hemp preparation registration card to each designated**
30 **caregiver applicant who:**

31 **(1) Is designated in a patient's application; and**

32 **(2) submits an application to the department on a form created**
33 **by the department that contains:**

34 **(A) The applicant's name and address;**

35 **(B) the patient's name;**

36 **(C) a copy of the designated caregiver's valid photo**
37 **identification; and**

38 **(D) any other information the department reasonably considers**
39 **necessary to implement the provisions of this section.**

40 **(d) A patient may designate only one caregiver at any given time**
41 **unless the patient or such patient's parent submits documentation**
42 **demonstrating that a greater number of designated caregivers are**
43 **needed due to the patient's age or medical condition.**

1 (e) The department shall, not later than 30 calendar days after
2 the date of the receipt of the completed application materials, approve
3 the application and issue to the applicant a registration card with a
4 unique, random identification number.

5 (f) Until the department issues, renews or denies a registration
6 card, a copy of the individual's application, a copy of the patient's
7 written certification and proof that the application was submitted to
8 the department shall be deemed a registration card.

9 (g) Until the department makes applications available, a valid,
10 written certification issued within the previous year shall be deemed a
11 registration card for a patient.

12 (h) Until the department makes applications available, the
13 following shall be deemed a designated caregiver registration card:

14 (1) A copy of a patient's valid written certification issued within
15 the previous year; and

16 (2) a signed affidavit attesting that the person has significant
17 responsibility for managing the well-being of the patient and that the
18 person has been chosen to assist a patient in obtaining hemp
19 preparations.

20 (i) Except as provided in this subsection, the expiration date of a
21 registration card shall be one year after the date of issuance. If a
22 physician states in the written certification that a patient would
23 benefit from hemp preparations until a specified earlier date, then the
24 registration card shall expire on that date.

25 Sec. 4. (a) The department shall maintain a confidential list of all
26 cardholders and each cardholder's address and registry identification
27 number. This confidential list shall not be combined or linked in any
28 manner with any other list or database, nor shall it be used for any
29 purpose not provided for in sections 1 through 11, and amendments
30 thereto.

31 (b) The department shall treat written certifications, applications,
32 renewals, supporting information, the names of applicants,
33 cardholders, visiting cardholders and physicians and related records
34 as protected health information under the health insurance portability
35 and accountability act of 1996 (public law 104-191), exempt from
36 disclosure under the Kansas open records act, K.S.A. 45-215 et seq.,
37 and amendments thereto, and not subject to disclosure to any
38 individual or public or private entity, except as provided in this
39 section.

40 (c) Nothing in this section shall preclude the following:

41 (1) Authorized employees of the department accessing the
42 information to perform official duties pursuant to this act;

43 (2) department employees notifying state or local law

1 enforcement about falsified or fraudulent information submitted to
2 the department or of other apparent criminal violations of this act;

3 (3) department employees notifying the state board of healing
4 arts if the department has reasonable suspicion to believe a physician
5 violated the standard of care or for other suspected violations of this
6 act by a physician;

7 (4) the department verifying registration cards pursuant to
8 subsection (d);

9 (5) at a cardholder's request, the department confirming such
10 cardholder's status as a cardholder to a third party, such as a
11 landlord, school, medical professional or court; and

12 (6) provided that no identifying information pertaining to
13 cardholders, visiting cardholders, or physicians is disclosed:

14 (A) The department may release data that was voluntarily
15 submitted by cardholders and visiting cardholders on the effectiveness
16 and any side effects of medical hemp preparations to researchers at
17 institutions of higher education; and

18 (B) the department may release information on the number of
19 patients and designated caregivers approved, the number of registry
20 identification cards revoked and aggregate information from
21 voluntary reports on the effectiveness of medical hemp preparations
22 and any side effects patients have experienced.

23 (d) Within 120 days of the effective date of this act, the
24 department shall establish a secure phone or web-based verification
25 system. Such verification system must allow law enforcement
26 personnel, medical hemp establishments and medical hemp
27 establishment agents to enter a registry identification number and
28 determine whether or not the number corresponds with a current,
29 valid registration card. The system may disclose only whether the
30 registration card is valid, the name of the cardholder and whether the
31 cardholder is a registered patient or a designated caregiver. The
32 department may also include visiting cardholders in the database.

33 Sec. 5. (a) Not later than 120 days after the effective date of this
34 act, the department shall promulgate rules and regulations:

35 (1) Establishing the form and content of registration and renewal
36 applications submitted under this act;

37 (2) establishing the form and content of registration cards;

38 (3) determining the number of testing laboratories that will be
39 allowed in the state, which may not be fewer than two;

40 (4) determining the number of hemp preparation centers that will
41 be allowed in the state, which shall be:

42 (A) No fewer than is reasonably necessary to ensure safe, steady
43 access to hemp preparations to cardholders located throughout the

1 state; and

2 (B) no fewer than a total of three;

3 (5) establishing a system to numerically score competing medical
4 hemp establishment applicants that must include analysis of:

5 (A) in the case of hemp preparation centers, the suitability of the
6 proposed location and its accessibility for patients;

7 (B) the character, veracity, background and relevant experience
8 of principal officers and board members; and

9 (C) the business plan proposed by the applicant, which in the case
10 of hemp preparation centers shall include the ability to maintain an
11 adequate supply of hemp preparations, plans to ensure safety and
12 security of patrons and the community and procedures to be used to
13 prevent diversion;

14 (6) governing the manner in which it shall consider applications
15 for and renewals of registration cards, which may include creating a
16 standardized written certification form;

17 (7) governing medical hemp establishments to prevent diversion
18 and theft without imposing an undue burden or compromising the
19 confidentiality of cardholders, including:

20 (A) Oversight requirements;

21 (B) recordkeeping requirements;

22 (C) security requirements, including at a minimum, lighting,
23 physical security, transportation, waste destruction, video, and alarm
24 requirements;

25 (D) health and safety requirements, including prohibiting the use
26 of harmful pesticides;

27 (E) restrictions on advertising and signage;

28 (F) requirements and procedures for the safe and accurate
29 packaging and labeling of medical hemp including requiring:

30 (i) Disclosure of whether the hemp preparation is organic or non-
31 organic;

32 (ii) specifying the length of time it typically takes for a product to
33 take effect;

34 (iii) listing ingredients and possible allergens in edible and
35 potable preparations;

36 (iv) a nutritional fact panel on all edible and potable products;
37 and

38 (v) a unique serial number that will match the product with a
39 hemp preparation center batch and lot number so as to facilitate any
40 warnings or recalls;

41 (G) rules for random sample testing to ensure that hemp
42 preparations available to cardholders and visiting cardholders are
43 accurately labeled for content and potency in accordance with

1 standards established by the department to ensure the health and
2 safety of patient cardholders;

3 (H) procedures for mandatory and voluntary recalls of hemp
4 preparations; and

5 (I) reporting requirements for changes, alterations or
6 modifications of the premises;

7 (8) establishing procedures for suspending or terminating the
8 registration certificates or registration cards of cardholders and
9 medical hemp establishments that commit multiple or serious
10 violations of the provisions of this act or any rules and regulations
11 promulgated pursuant to this section; and

12 (9) establishing reasonable application and renewal fees for
13 registration cards, hemp preparation center registration certificates,
14 testing laboratory registration certificates and such other fees that the
15 department deems reasonably necessary to administer this act,
16 according to the following:

17 (A) The fees shall be no greater than the amount reasonably
18 necessary to cover the cost the department incurs to implement the
19 provisions of this act;

20 (B) the fees for registration cards shall be no greater than the
21 amount reasonably necessary to cover the cost the department incurs
22 processing the identification cards;

23 (C) the fee structure established by the department must
24 incorporate a sliding scale for cardholders who receive medicaid,
25 supplemental security income or social security disability insurance;
26 and

27 (D) the following fees shall not exceed:

28	Hemp preparation center registration certificate application.....	\$5,000
29	Hemp preparation center registration certificate.....	\$20,000
30	Testing laboratory registration certificate.....	\$2,000
31	Individual hemp preparation registration card.....	\$75
32	Visiting cardholder.....	\$80

33 (b) The department may promulgate rules and regulations:

34 (1) Establishing a presumptive maximum quantity of hemp
35 preparations that a cardholder or a visiting cardholder may possess,
36 provided that:

37 (A) The amount should be no less than a reasonable 60-day
38 supply; and

39 (B) a patient may apply for a waiver if a physician provides a
40 substantial medical basis in a signed, written statement asserting that,
41 based on the patient's medical history, in the physician's professional
42 judgment, the amount established by the department is an insufficient
43 amount to properly alleviate the patient's medical condition or

1 symptoms associated with such medical condition;

2 (2) requiring visiting cardholders to submit a medical
3 practitioner's statement confirming that the patient has a qualifying
4 medical condition and documentation demonstrating that the visiting
5 cardholder is allowed to possess cannabis or hemp preparations in the
6 jurisdiction where such person resides, provided that:

7 (A) Any fee required of visiting cardholders must be no greater
8 than the amount reasonably necessary to cover the cost the
9 department incurs in processing their documentation and issuing any
10 confirmation; and

11 (B) if the department requires visiting cardholders to submit
12 documentation to the department, a confirmation must be issued
13 electronically to the individual no later than seven calendar days after
14 such documentation is submitted.

15 Sec. 6. (a) A cardholder or visiting cardholder shall not be subject
16 to arrest, prosecution under state or municipal law or denial of any
17 right or privilege, including, but not limited to, civil penalty or
18 disciplinary action by a court or occupational or professional licensing
19 board or bureau, for the medical use of hemp preparations pursuant
20 to sections 1 through 11, and amendments thereto.

21 (b) No person may be subject to arrest, prosecution under state or
22 municipal law or denial of any right or privilege, including, but not
23 limited to, civil penalty or disciplinary action by a court or
24 occupational or professional licensing board or bureau, for:

25 (1) Selling hemp paraphernalia to a registered medical hemp
26 establishment, a cardholder or a visiting cardholder;

27 (2) being in the presence or vicinity of the medical use of hemp
28 preparations as allowed by sections 1 through 11, and amendments
29 thereto; or

30 (3) assisting a patient with a registration card in the act of using
31 or administering hemp.

32 (c) A hemp preparation center or hemp preparation center agent
33 shall not be subject to prosecution under state or municipal law,
34 search or inspection, except by the department pursuant to section
35 10(a), and amendments thereto, seizure or penalty in any manner or
36 be denied any right or privilege, including, but not limited to, civil
37 penalty or disciplinary action by a court or business licensing board or
38 entity, for acting pursuant to sections 1 through 11, and amendments
39 thereto, and department rules and regulations to:

40 (1) Sell cannabis seeds to similar entities that are registered to
41 dispense cannabis for medical use in other jurisdictions;

42 (2) acquire, cultivate, grow, harvest, manufacture, plant, possess,
43 prepare, propagate, transport or store cannabis, hemp paraphernalia

1 and hemp preparations;

2 (3) deliver, dispense, supply, sell, transfer or transport hemp
3 preparations, paraphernalia for use with hemp preparations or
4 related supplies and educational materials to cardholders and visiting
5 cardholders;

6 (4) deliver, dispense, transfer, transport, sell or supply cannabis
7 seeds, cannabis seedlings, cannabis plants, cannabis, hemp
8 preparations or related supplies and educational materials to other
9 hemp preparation centers; or

10 (5) deliver, transfer or transport cannabis or hemp preparations
11 to registered testing laboratories.

12 (d) A registered testing laboratory and testing laboratory agents
13 acting on behalf of a testing laboratory shall not be subject to
14 prosecution under state or municipal law, search, except by the
15 department pursuant to section 10(a), and amendments thereto,
16 seizure or penalty in any manner, or be denied any right or privilege,
17 including, but not limited to, civil penalty or disciplinary action by a
18 court or business licensing board or entity, solely for acting in
19 accordance with this act and department rules and regulations to
20 provide the following services:

21 (1) Acquiring, possessing, storing, analyzing, testing or
22 transporting cannabis obtained from hemp preparation centers and
23 hemp preparations obtained from cardholders, visiting cardholders or
24 hemp preparation centers;

25 (2) possessing, storing or transporting hemp paraphernalia;

26 (3) returning the hemp preparations to cardholders or hemp
27 preparation centers; or

28 (4) receiving compensation for actions allowed under this section.

29 (e) Mere possession of, or application for, a registration card or
30 medical hemp establishment registration shall not constitute probable
31 cause or reasonable suspicion, nor shall it be used to support the
32 search of the person, property or home of the person possessing or
33 applying for the registration card. The possession of, or application
34 for, a registration card or registration certificate shall not preclude the
35 existence of probable cause if probable cause exists on other grounds.

36 (f) For the purposes of state law, the medical use of hemp
37 preparations by a cardholder or visiting cardholder and activities a
38 registered medical hemp establishment are registered to engage in
39 shall be considered lawful as long as they are undertaken in
40 accordance with sections 1 through 11, and amendments thereto.

41 Sec. 7. (a) For the purposes of medical care, including organ and
42 tissue transplants, a patient's medical use of hemp preparations in
43 accordance with sections 1 through 11, and amendments thereto, is the

1 equivalent of the authorized use of any other medication in
2 accordance with a prescription issued by a physician and does not
3 constitute the use of an illicit substance or otherwise disqualify a
4 patient cardholder from needed medical care.

5 (b) A person otherwise entitled to custody of or visitation or
6 parenting time with a minor shall not be denied such a right, and
7 there shall be no presumption of neglect or child endangerment, for
8 conduct allowed by sections 1 through 11, and amendments thereto,
9 unless the person's actions in relation to hemp preparations were such
10 that they created an unreasonable danger to the safety of the minor as
11 established by clear and convincing evidence.

12 Sec. 8. (a) Sections 1 through 11, and amendments thereto, do not
13 authorize any person to engage in, and do not prevent the imposition
14 of any civil, criminal or other penalties for engaging in the following
15 conduct:

16 (1) Undertaking any task under the influence of hemp
17 preparations when doing so would constitute negligence or
18 professional malpractice; or

19 (2) operating, navigating or being in actual physical control of
20 any motor vehicle, aircraft or motorboat while impaired by hemp
21 preparations.

22 (b) Nothing in this act requires a government medical assistance
23 program or private insurer to reimburse a person for costs associated
24 with the medical use of hemp preparations.

25 Sec. 9. (a) Any person who operates a medical hemp
26 establishment must first submit an application form to the department
27 and receive approval. Each application must be for a single type of a
28 medical hemp establishment.

29 (b) No later than 120 days after the effective date of this act, the
30 department shall begin accepting applications for hemp preparation
31 centers and testing laboratories.

32 (c) Except as otherwise provided in this act, not later than 90
33 calendar days after receiving an application to operate a medical
34 hemp establishment, the department shall register the medical hemp
35 establishment and issue a registration certificate and a random
36 identification number if:

37 (1) The person or persons who wish to operate the proposed
38 medical hemp establishment have submitted to the department all of
39 the following:

40 (A) The application fee, as established by the department; and

41 (B) an application, which must include:

42 (i) The legal name of the proposed medical cannabis
43 establishment;

1 (ii) the physical address where the proposed medical hemp
2 establishment will be located and the physical address of any co-
3 owned additional or otherwise associated medical hemp
4 establishments, so long as the location of the proposed medical hemp
5 establishment is not within 1,000 feet of a public or private school that
6 provides formal education traditionally associated with preschool or
7 kindergarten through grade 12 which existed on the date on which the
8 application for the proposed medical hemp establishment was
9 submitted to the department;

10 (C) evidence that the applicant controls not less than \$250,000 in
11 liquid assets;

12 (D) evidence that the applicant owns the property on which the
13 proposed medical hemp establishment will be located or has the
14 written permission of the property owner to operate the proposed
15 medical hemp establishment on that property;

16 (E) the name, address and date of birth of each person who is
17 proposed to be an owner, officer or board member of the proposed
18 medical hemp establishment;

19 (F) operating procedures consistent with rules and regulations of
20 the department for oversight of the proposed medical hemp
21 establishment, including procedures to ensure the use of adequate
22 security measures;

23 (G) if the city, town or, in the case of a location in an
24 unincorporated area, county in which the proposed medical hemp
25 establishment will be located has enacted zoning restrictions or
26 licensing requirements, proof of licensure with the applicable local
27 governmental authority or an affirmation signed by the applicant that
28 the proposed medical hemp establishment will be in compliance with
29 those restrictions and satisfies all applicable zoning requirements; and

30 (H) such other information as the department may reasonably
31 require by rules and regulations;

32 (2) none of the persons who are proposed to be owners, officers or
33 board members of the proposed medical hemp establishment have
34 served as an owner, officer or board member for a medical hemp
35 establishment that has had its medical hemp establishment
36 registration certificate revoked; and

37 (3) none of the persons who are proposed to be owners, officers or
38 board members of the proposed medical hemp establishment are
39 under 21 years of age.

40 (b) When more qualifying applications are submitted for a
41 proposed hemp preparation center or testing laboratory than the
42 department will approve, the department shall use an impartial and
43 numerically scored merit-based selection process to determine which

1 application or applications to approve. The department may approve
2 the highest scoring application or applications in specific geographic
3 regions of the state. The department may conduct a background check
4 of the principal officers and board members of any prospective hemp
5 preparation center to carry out the provisions of this subsection.

6 (c) Except as otherwise provided in this act, if an application for
7 registration as a medical hemp establishment satisfies the
8 requirements of this section and the establishment is not disqualified
9 from being registered as a medical hemp establishment pursuant to
10 this act or other applicable law, the department shall issue to the
11 establishment a medical hemp establishment registration certificate. A
12 medical hemp establishment registration certificate expires two years
13 after the date of issuance and may be renewed upon:

14 (1) Submission of a renewal application; and

15 (2) payment of the renewal fee established by the department.

16 Sec. 10. (a) Medical hemp establishments are subject to
17 reasonable inspection by the department.

18 (b) A medical hemp establishment may not employ or accept as a
19 volunteer any person who is under 21 years of age.

20 (c) The operating documents of a medical hemp establishment
21 must include procedures for the oversight of the medical hemp
22 establishment and procedures to ensure accurate recordkeeping.

23 (d) A medical hemp establishment shall implement appropriate
24 security measures designed to deter and prevent:

25 (1) The theft of cannabis and hemp preparations; and

26 (2) unauthorized entrance into areas containing cannabis or
27 hemp preparations.

28 (e) Before hemp preparations may be dispensed to a cardholder
29 or visiting cardholder, a hemp preparation center agent must:

30 (1) Make a diligent effort to verify that the registration card or
31 other documentation presented to the hemp preparation center is
32 valid; and

33 (2) make a diligent effort to verify that the person presenting the
34 card is the person identified on the registration card presented to the
35 hemp preparation center agent.

36 (f) A hemp preparation center must dispense hemp preparations
37 in a sealed container with a label that conforms to department
38 regulations and that indicates the hemp preparation's ingredients and
39 its percentages of tetrahydrocannabinol and cannabidiol by weight.

40 (g) Hemp preparation centers shall collect and submit to the
41 department data on strains used, methods of delivery, any side effects
42 experienced and the therapeutic effectiveness of hemp preparations
43 for each patient who is willing to provide the information. Such data

1 collection shall be done under the patient's registry identification
2 number to protect the patient's confidentiality.

3 Sec. 11. If any provision of sections 1 through 11, and
4 amendments thereto, or the application thereof to any person or
5 circumstance is held invalid, such invalidity shall not affect the
6 application of any other provision of this act that can be given full
7 effect without the invalid section or application.}

8 {New Section 12. (a) Sections 1 and 2, and amendments thereto,
9 shall be known and may be cited as the alternative crop research act.

10 (b) As used in the alternative crop research act:

11 (1) "Certified seed" means industrial hemp seed that has been
12 certified as having no more tetrahydrocannabinol concentration than
13 that adopted by federal law in the controlled substances act, 21 U.S.C.
14 § 801 et seq.

15 (2) "Department" means the Kansas department of agriculture.

16 (3) "Hemp products" means all products made from industrial
17 hemp, including, but not limited to, cloth, cordage, fiber, food, fuel,
18 paint, paper, particleboard, plastics, seed, seed metal and seed oil for
19 consumption and certified seed for cultivation if the seeds originate
20 from industrial hemp varieties.

21 (4) "Industrial hemp" means all parts and varieties of the plant
22 cannabis sativa, cultivated or possessed by a state educational
23 institution or the department, whether growing or not, that contain a
24 tetrahydrocannabinol concentration of no more than that adopted by
25 federal law in the controlled substances act, 21 U.S.C. § 801 et seq.

26 (5) "Seed research" means research conducted to develop or
27 recreate better strains of industrial hemp, particularly for the purpose
28 of seed production.

29 (6) "State educational institution" means the university of
30 Kansas, Kansas state university, Wichita state university, Emporia
31 state university, Pittsburg state university and Fort Hays state
32 university.

33 (7) "Tetrahydrocannabinol" or "THC" means the natural or
34 synthetic equivalents of the substances contained in the plant or in the
35 resinous extractives of cannabis or any synthetic substances,
36 compounds, salts or derivatives of the plant or chemicals and their
37 isomers with similar chemical structure and pharmacological activity.

38 New Sec. 13. (a) The department, alone or in coordination with a
39 state educational institution, may cultivate industrial hemp grown
40 from certified seed and promote the research and development of
41 industrial hemp. This research may include:

42 (1) Oversight and analysis of growth of industrial hemp to
43 conduct agronomy research and analysis of required soils, growing

1 conditions and harvest methods relating to the production of various
 2 varieties of industrial hemp that may be suitable for various
 3 commercial hemp products;

4 (2) seed research on various types of industrial hemp that are best
 5 suited to be grown in Kansas, including seed availability, creation of
 6 hybrid types, in-the-ground variety trials and seed production;

7 (3) analysis on the economic feasibility of developing an industrial
 8 hemp market in various types of industrial hemp that can be grown in
 9 Kansas;

10 (4) analysis on the estimated value-added benefits, including
 11 environment benefits, that Kansas businesses would reap by having an
 12 industrial hemp market of Kansas-grown industrial hemp varieties;

13 (5) a study on the agronomy research conducted worldwide
 14 relating to industrial hemp varieties, production and utilization; and

15 (6) a study on the feasibility of attracting federal and private
 16 funding for industrial hemp research.

17 (b) The secretary of agriculture shall have the authority to
 18 promulgate rules and regulations to carry out the provisions of the
 19 alternative crop research act.

20 (c) Nothing in the alternative crop research act shall be construed
 21 to authorize any person to violate any federal law.

22 Sec. 14. K.S.A. 2014 Supp. 21-5702 is hereby amended to read as
 23 follows: 21-5702. (a) Prosecutions for crimes committed prior to July
 24 1, 2009, shall be governed by the law in effect at the time the crime
 25 was committed. For purposes of this section, a crime was committed
 26 prior to July 1, 2009, if any element of the crime occurred prior
 27 thereto.

28 (b) The prohibitions of this act shall apply unless the conduct
 29 prohibited is authorized by the pharmacy act of the state of Kansas,
 30 the uniform controlled substances act, *the alternative crop research act*
 31 or otherwise authorized by law.}

32 ~~Section 14. {Sec. 15.}~~ K.S.A. 2014 Supp. 21-5706 is hereby amended
 33 to read as follows: 21-5706. (a) It shall be unlawful for any person to
 34 possess any opiates, opium or narcotic drugs, or any stimulant designated
 35 in ~~subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107(d)(1), (d)(3) or (f)~~
 36 ~~(1)~~, and amendments thereto, or a controlled substance analog thereof.

37 (b) It shall be unlawful for any person to possess any of the following
 38 controlled substances or controlled substance analogs thereof:

39 (1) Any depressant designated in ~~subsection (e) of K.S.A. 65-4105(e),~~
 40 ~~subsection (e) of K.S.A. 65-4107(e), subsection (b) or (c) of K.S.A. 65-~~
 41 ~~4109(b) or (c) or subsection (b) of K.S.A. 65-4111(b)~~, and amendments
 42 thereto;

43 (2) any stimulant designated in ~~subsection (f) of K.S.A. 65-4105(f),~~

1 ~~subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107(d)(2), (d)(4),~~
2 ~~(d)(5) or (f)(2) or subsection (e) of K.S.A. 65-4109(e), and amendments~~
3 ~~thereto;~~

4 (3) any hallucinogenic drug designated in ~~subsection (d) of K.S.A.~~
5 ~~65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of~~
6 ~~K.S.A. 65-4109(g), and amendments thereto;~~

7 (4) any substance designated in ~~subsection (g) of K.S.A. 65-4105(g)~~
8 ~~and subsection (e), (d), (e), (f) or (g) of K.S.A. 65-4111(c), (d), (e), (f) or~~
9 ~~(g), and amendments thereto;~~

10 (5) any anabolic steroids as defined in ~~subsection (f) of K.S.A. 65-~~
11 ~~4109(f), and amendments thereto;~~

12 (6) any substance designated in K.S.A. 65-4113, and amendments
13 thereto; or

14 (7) any substance designated in ~~subsection (h) of K.S.A. 65-4105(h),~~
15 ~~and amendments thereto.~~

16 (c) (1) Violation of subsection (a) is a drug severity level 5 felony;
17 and

18 (2) *except as provided in subsection (c)(3):*

19 (A) Violation of subsection (b) is a class A nonperson misdemeanor,
20 except as provided in subsection (c)(2)(B); and

21 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug
22 severity level 5 felony if that person has a prior conviction under such
23 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially
24 similar offense from another jurisdiction, or under any city ordinance or
25 county resolution for a substantially similar offense if the substance
26 involved was 3, 4-methylenedioxyamphetamine (MDMA), ~~marijuana~~
27 ~~marihuana~~ **{marijuana}** as designated in ~~subsection (d) of K.S.A. 65-~~
28 ~~4105(d), and amendments thereto, or any substance designated in~~
29 ~~subsection (h) of K.S.A. 65-4105(h), and amendments thereto, or an~~
30 ~~analog thereof;~~

31 (3) *if the substance involved is ~~marihuana~~ **{marijuana}**, as*
32 *designated in K.S.A. 65-4105(d)(16), and amendments thereto, violation of*
33 *subsection (b):*

34 (A) *Is a class B nonperson misdemeanor, except as provided in (c)(3)*
35 *(B) and (c)(3)(C);*

36 (B) *is a class A nonperson misdemeanor if that person has a prior*
37 *conviction under such subsection, under K.S.A. 65-4162, prior to its*
38 *repeal, under a substantially similar offense from another jurisdiction, or*
39 *under any city ordinance or county resolution for a substantially similar*
40 *offense; or*

41 (C) *is a drug severity level 5 felony if that person has two or more*
42 *prior convictions under such subsection, under K.S.A. 65-4162, prior to its*
43 *repeal, under a substantially similar offense from another jurisdiction, or*

1 *under any city ordinance or county resolution for a substantially similar*
2 *offense.*

3 (d) It shall not be a defense to charges arising under this section that
4 the defendant was acting in an agency relationship on behalf of any other
5 party in a transaction involving a controlled substance or controlled
6 substance analog.

7 ~~Sec. 2.~~ **{16.}** K.S.A. 2014 Supp. **{21-5702 and}** 21-5706 ~~is{are}~~
8 hereby repealed.

9 ~~Sec. 3.~~ **{17.}** This act shall take effect and be in force from and after
10 its publication in the statute book.