SENATE BILL No. 328

By Committee on Natural Resources

AN ACT concerning the plant pest and agriculture commodity certification act; relating to certain definitions; relating to plant pest containment; amending K.S.A. 2015 Supp. 2-2113, 2-2114, 2-2116 and 2-2117 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 2-2113 is hereby amended to read as follows: 2-2113. As used in this act:

(a) "Plant pests" includes any stage of development of any insect, nematode, arachnid, or any other invertebrate animal, or any bacteria, fungus, virus, weed or any other parasitic plant or microorganism, or any toxicant, which can injure plants or plant products, or which can cause a threat to public health.

(b) "Secretary" means the secretary of the Kansas department of agriculture, or the authorized representative of the secretary.

(c) "Plants" means trees, shrubs, grasses, vines, forage and cereal plants and all other plants, including growing crops; cuttings, grafts, scions, buds and all other parts of plants.

(d) "Plant products" means fruit, vegetables, roots, bulbs, seeds, wood, lumber, grains and all other plant products.

(e) "Location" means any grounds or premises on or in which live plants are propagated, or grown, or from which live plants are removed for sale, or any grounds or premises on or in which live plants are being fumigated, treated, packed, stored or offered for sale.

(f) "Live plant dealer" means any person, unless excluded by rules and regulations adopted hereunder, who engages in business in the following manner:

(1) Grows live plants for sale or distribution;

(2) buys or obtains live plants for the purpose of reselling or reshipping within this state;

(3) plants, transplants or moves live plants from place to place within the state with the intent to plant such live plants for others and receives compensation for the live plants, for the planting of such live plants or for both live plants and plantings; or

(4) gives live plants as a premium or for advertising purposes.

(g) "Person" means a corporation, company, society, association,
partnership, governmental agency and any individual or combination of
individuals.

(h) "Permit" means a document issued or authorized by the secretary
to provide for the movement of regulated articles to restricted destinations
for limited handling, utilization or processing.

(i) "Host" means any plant or plant product upon which a plant pest is
dependent for completion of any portion of its life cycle.

(j) "Regulated article" means any host or any article of any character
as described in a quarantine or regulation carrying or being capable of
carrying the plant pest against which the quarantine or regulation is
directed.

(k) "Live plant" means any living plant, cultivated or wild, or any part
thereof that can be planted or propagated unless specifically exempted by
the rules or regulations of the secretary.

(l) "Quarantine pest" means a pest of potential economic importance
to the area endangered thereby and not yet present there, or present but not
widely distributed and being officially controlled.

(m) "Regulated nonquarantine pest" means a nonquarantine pest
whose presence in plants for planting affects the intended use of those
plants with an economically unacceptable impact and which is therefore
regulated.

(n) "Official control" means the active enforcement of mandatory
phytosanitary regulations and the application of mandatory phytosanitary
procedures with the objective of eradication or containment of quarantine
pests or for the management of regulated nonquarantine pest.

(o) "Regulated area" means an area into which, within which or from
which plants, plant products and other regulated articles are subjected to
phytosanitary regulations or procedures in order to prevent the
introduction or spread of quarantine pests or to limit the economic impact
of regulated nonquarantine pests.

(p) "Bee" means a honey-producing insect of the genus Apis
including all life stages of the insect.

(q) "Beekeeping equipment" means all hives, supers, frames or other
devices used in the rearing or manipulation of bees or their brood.

(r) "Toxicant" means any chemical, including an agricultural
chemical as defined in K.S.A. 2-2202, and amendments thereto, or any
biological substance which, if present in unsafe levels, can render a plant
or plant product unsafe for human or animal consumption.

Sec. 2. K.S.A. 2015 Supp. 2-2114 is hereby amended to read as
follows: 2-2114. The secretary, either independently, or in cooperation
with counties, cities, other political subdivisions of the state, federal
agencies, agencies of other states or private entities may enter into
contracts and agreements and may carry out official control operations or
measures to locate, and to suppress, control, eradicate, prevent, contain or retard the spread of, any plant pests.

Sec. 3. K.S.A. 2015 Supp. 2-2116 is hereby amended to read as follows: 2-2116. Wherever the secretary finds a plant, plant product or other regulated article that is infested by a plant pest or finds that a plant pest exists on any premises in this state or is in transit in this state, the secretary may:

(a) Upon giving notice to the person in possession thereof, or agent of such person, seize, quarantine, treat or otherwise dispose of such plant pest in such manner as the secretary deems necessary to suppress, control, eradicate, prevent, contain or retard the spread of such plant pest;

(b) order such person in possession thereof, or agent of such person to so treat or otherwise dispose of such plant pest. If such person fails to comply with such order, the secretary may treat or otherwise dispose of such plant pest; or

(c) if such person is a live plant dealer, after notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act, the secretary may assess against such live plant dealer any reasonable expense incurred by the secretary in treating or otherwise disposing of such plant pest.

Sec. 4. K.S.A. 2015 Supp. 2-2117 is hereby amended to read as follows: 2-2117. The secretary is authorized to quarantine this state or any portion thereof when the secretary determines that such action is necessary to prevent or retard the spread of a plant pest or to contain a plant pest for the protection of the public health and to quarantine any other state or portion thereof whenever the secretary determines that a plant pest exists therein and that such action is necessary to prevent or retard its spread, movement or transportation into this state. Before promulgating the determination that a quarantine is necessary, the secretary, after providing due notice to interested parties, shall hold a public hearing at which any interested party may appear and be heard either in person or by attorney. The secretary may impose a temporary quarantine for a period not to exceed 90 days during which time a public hearing, as provided in this section, shall be held if it appears that a quarantine for more than the 90-day period will be necessary to prevent, contain or retard the spread of the plant pest. The secretary may limit the application of the quarantine to the infested portion of the quarantined area and appropriate environs, to be known as the regulated area, and, without further hearing, may extend the regulated area to include additional portions of the quarantined area. Following the establishment of the quarantine, no person shall move the plant pest against which the quarantine is established or move any regulated article described in the quarantine, within, from, into or through this state contrary to the quarantine promulgated by the secretary. The
quarantine may restrict the movement of the plant pest and any regulated 
articles from the quarantined or regulated area in this state into or through 
other parts of this state or other states and from the quarantined or 
regulated area in other states into or through this state. The secretary shall 
impose such inspection, disinfection, certification or permit and other 
requirements as the secretary shall deem necessary to effectuate the 
purposes of this act. The secretary is authorized to establish regulations 
defining pest freedom standards for live plants, plants and plant products 
or other regulated articles that pose risk of moving plant pests that may 
cause economic or environmental harm.

Sec. 5. K.S.A. 2015 Supp. 2-2113, 2-2114, 2-2116 and 2-2117 are 
hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its 
publication in the statute book.