AN ACT concerning economic development; relating to agribusiness development of an industrial hemp industry; enacting the Kansas agricultural industry growth act; amending K.S.A. 2016 Supp. 21-5702 and repealing the existing section.

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

New Section 1. Sections 1 through 9, and amendments thereto, shall be known and may be cited as the Kansas agricultural industry growth act. The purpose of the act is to authorize and encourage, in accordance with federal law, research activities, business development and support activities, public-private cooperation and educational activities toward the growth of an industrial hemp cultivating, processing or distributing industry in Kansas. This effort shall include, but not be limited to, developing a value-added industrial hemp industry in this state such as the use of oilseed or of plant stalks to produce high-grade food and beauty products, fiber and cellulose for automotive parts, building products, fuel or other industrial hemp products and the development or commercialization of additional or improved Kansas products and markets for Kansas-grown or Kansas-made products. The intent of this act is to accomplish this purpose through the efforts of Kansas farmers and others engaged in agribusiness in this state and the expertise of the Kansas department of agriculture and Kansas institutions of higher education.

New Sec. 2. As used in sections 1 through 9, and amendments thereto:

(a) "Act" means the Kansas agricultural industry growth act.
(b) "Secretary" means the secretary of agriculture, or the secretary's designee or authorized agent.
(c) "Department" means the Kansas department of agriculture.
(d) "Distribute" means to offer for sale, sell, exchange or barter industrial hemp.
(e) "Grower" means any person engaged in the growing or cultivating of industrial hemp.
(f) "Industrial hemp" means the plants and all plant parts of the genera cannabis that do not contain a delta-9 tetrahydrocannabinol concentration more than 0.3% on a dry mass basis, grown from seed certified by a certifying agency, as defined by K.S.A. 2-1415, and
amendments thereto, for growing industrial hemp.

(g) "Industrial hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed metal and seed oil for consumption and seed for cultivation if the seeds originate from industrial hemp varieties and are certified by a certifying agency, as defined by K.S.A. 2-1415, and amendments thereto, for growing industrial hemp.

(h) "Person" includes an individual, partnership, corporation, association or other legal entity and institutions of higher education.

(i) "Process" means to perform one or more mechanical or chemical operations on industrial hemp in order to change or preserve the industrial hemp.

(j) "Higher educational institution" means:
   (A) A state educational institution as defined in K.S.A. 76-711, and amendments thereto, a municipal university or community college established and operating under the laws of this state or any not-for-profit independent institution of higher education which is accredited by the north central association of colleges and secondary schools accrediting agency as of July 1, 2017, is operated independently and not controlled or administered by the state or any agency or subdivision thereof, maintains open enrollment and the main campus or principal place of operation of which is located in Kansas; and
   (B) that offers a baccalaureate or post-graduate level program of study in agricultural sciences.

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

(l) "Research" means all types of industrial hemp-related agronomy research and analysis, seed research and seed or varietal improvement, development or commercialization of industrial hemp products, analysis of opportunities for value-added functions or industries based on industrial hemp in Kansas or any other research directly related to industrial hemp or the development or support of an industrial hemp industry in Kansas that would further the purposes of the act.

New Sec. 3. (a) Any person who processes raw industrial hemp within this state, or who distributes industrial hemp in or into this state, shall annually obtain a license from the department for each facility at which industrial hemp is processed in this state, or from which industrial hemp is distributed in or into this state, authorizing the person to process or distribute industrial hemp before engaging in the activity. Any person who makes only retail sales of industrial hemp obtained from a licensed
processor or distributor is not required to obtain a license. A processor or
distributor licensed under this subsection shall agree that the department
has the right to inspect its facilities and any industrial hemp in its
possession for compliance with the provisions of this act and the rules and
regulations of the department.

(b) The department shall oversee and annually license any grower
who wishes to produce industrial hemp. Any person who cultivates an
industrial hemp crop of any size shall obtain a license from the department
authorizing the person to cultivate industrial hemp before engaging in the
activity. In order to obtain an industrial hemp license, the grower shall
agree that the department has the right to inspect the hemp crop for
compliance with the provisions of this act and the rules and regulations of
the department.

(c) Any person who is required to obtain a license under this section
shall submit an application on a form approved by the secretary,
accompanied by payment of a fee in the amount established by the
secretary. Each license shall expire one calendar year from the date on
which it is issued and may be renewed in successive years. The secretary
may, and shall for good cause shown, extend the license for a period
sufficient for the licensee to obtain a license renewal, except that the
extension of time shall not exceed three months. The form and content of
industrial hemp license applications required by this section and the
application process and information required shall be established by rules
and regulations adopted by the secretary in accordance with applicable
federal law.

(d) In order to ensure public health and safety and compliance with
applicable federal law, the secretary is authorized to adopt rules and
regulations governing qualifications for licensure under this section. The
secretary shall adopt rules and regulations establishing reasonable fees for
licenses, license renewals, permits or other necessary expenses to defray
the cost of implementing and operating the industrial hemp program in this
state on an ongoing basis.

(e) The department shall refuse to issue a license to any person not in
compliance with the provisions of the Kansas agricultural industry growth
act or rules and regulations adopted by the secretary and to cancel the
license of any licensee subsequently found not to be in compliance, except
that no license shall be refused or canceled unless the applicant or licensee
has been given an opportunity to be heard before the secretary and to
amend the applicant's or licensee's application in order to comply with the
requirements of the act or the rules and regulations.

(f) The secretary is authorized to apply for, and the court to grant, a
temporary or permanent injunction restraining any person from violating
or continuing to violate any of the provisions of the Kansas agricultural
industry growth act or any rule or regulation adopted by the secretary
under the act, notwithstanding the existence of other remedies at law. The
injunction is to be issued without bond.

(g) If a grower, distributor or processor does not hold a current
license or an extension granted by the department pursuant to this section
and a crop, plant parts, seeds or raw hemp in the grower, distributor or
processor's possession contains, as determined by sampling tested by an
independent laboratory selected by the department, a delta-9
tetrahydrocannabinol concentration equal to or less than 0.3% on a dry
mass basis, the industrial hemp crop, industrial hemp plant parts, seeds or
raw industrial hemp shall be subject to civil seizure and sale or destruction
by the department.

(h) Any person adversely affected by the act, or an order or ruling
made by the secretary pursuant to the act, may seek judicial review under
the provisions of the Kansas judicial review act.

New Sec. 4. (a) There is hereby created in the state treasury the
agricultural industry growth program fund, to be administered by the
secretary.

(b) All revenue from fees or other revenue collected pursuant to rules
and regulations adopted by the secretary under the act or from public or
private sources for the industrial hemp program shall be used exclusively
for the administration and regulation of industrial hemp and the Kansas
agricultural industry growth act or to otherwise directly further the
purposes of the act. The secretary shall remit all such moneys received by
the secretary to the state treasurer in accordance with the provisions of
K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
remittance, the state treasurer shall deposit the entire amount in the state
treasury to the credit of the agricultural industry growth program fund. All
expenditures from the 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 secretary or by a person or persons designated
by the secretary.

(c) On or before the 10th of each month, the director of accounts and
reports shall transfer from the state general fund to the agricultural
industry growth program fund interest earnings based on:

(1) The average daily balance of moneys in the agricultural industry
growth program fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio
for the preceding month.

New Sec. 5. To the extent permitted by federal law, any higher
education institution in this state that offers a baccalaureate or post-
graduate level program of study in agricultural sciences is authorized to
acquire, possess, cultivate and test seeds, plants and plant parts of the
genera cannabis for the purpose of developing and reproducing seeds that
may be certified under the Kansas seed law, article 14 of chapter 2 of the
Kansas Statutes Annotated, and amendments thereto, by a certifying
agency as defined by K.S.A. 2-1415, and amendments thereto, for growing
industrial hemp, or for industrial hemp-related research purposes as
defined in section 2, and amendments thereto.

New Sec. 6. The secretary is authorized to cooperate with and enter
into agreements with governmental agencies of this state or other states,
agencies of the federal government, institutions of higher education in this
state or other states and private associations in order to carry out the
purpose or provisions of the Kansas agricultural industry growth act. The
department is authorized to seek public or private funding from any
federal, public or private source to further the purposes of the act.

New Sec. 7. Any person convicted of violating any of the provisions
of the Kansas agricultural industry growth act or who impedes, hinders or
otherwise prevents, or attempts to prevent, the secretary or an employee or
agent of the department in performance of that official's duty in connection
with the act commits a Class C misdemeanor.

New Sec. 8. The secretary is authorized to adopt rules and regulations
that are necessary for the efficient administration, oversight and
enforcement of the Kansas agricultural industry growth act. To the extent
permitted by federal law, the secretary shall include as part of the rules and
regulations, rules and regulations for the certification of seeds for
industrial hemp.

New Sec. 9. (a) Nothing in the Kansas agricultural industry growth
act shall be construed to authorize the development of or research relative
to any strain or variety of cannabis other than industrial hemp, as defined
by section 2, and amendments thereto, or to authorize any violation of
federal law by any person. For purposes of state law, industrial hemp as
defined in section 2, and amendments thereto, shall not be considered a
controlled substance or marijuana as defined by state law.

(b) Possession of hemp crop, plant parts, seeds or raw hemp by a
grower, distributor or processor or by an institution of higher learning in
compliance with section 5, and amendments thereto, containing a delta-9
tetrahydrocannabinol concentration more than 0.3% on a dry mass basis
shall not be considered a controlled substance or marijuana as defined by
state law for the purpose of criminal prosecution if:

(1) The grower, distributor or processor holds a current license or an
extension granted by the department and the crop, plant parts, seeds or raw
hemp:

(A) Have been produced from certified industrial hemp seed;
(B) are certified seeds or are possessed with the intent of obtaining
seed certification or to develop seeds for certification for industrial hemp;
or

(C) were acquired from a licensed grower, distributor or processor holding out the crop, plant parts, seeds or raw hemp as industrial hemp and the grower, distributor or processor possessing the crop, plant parts, seeds or raw hemp does not know or have reason to know that the crop, plant parts, seeds or raw hemp is not industrial hemp as defined in section 2, and amendments thereto; or

(2) the crop, plant parts, seed or raw hemp are in the possession of an institution of higher learning that is in compliance with the provisions of section 5, and amendments thereto.

Sec. 10. K.S.A. 2016 Supp. 21-5702 is hereby amended to read as follows: 21-5702. (a) Prosecutions for crimes committed prior to July 1, 2009, shall be governed by the law in effect at the time the crime was committed. For purposes of this section, a crime was committed prior to July 1, 2009, if any element of the crime occurred prior thereto.

(b) The prohibitions of this act shall apply unless the conduct prohibited is authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act, the Kansas agricultural industry growth act or otherwise authorized by law.

Sec. 11. K.S.A. 2016 Supp. 21-5702 is hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.