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 section 7606 of the agricultural act of 2014, 7 U.S.C. § 5940, and other 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. {The secretary of agriculture is directed to implement the provisions of this act as an agricultural pilot program, as defined in section 7606 of the agricultural act of 2014, 7 U.S.C. § 5940, and to encourage and facilitate research in accordance with this act.}

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 meal 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. {The secretary shall provide copies of all licenses issued to the Kansas bureau of investigation and to city or county law enforcement agencies with jurisdiction for the location of the licensee's address or the location where industrial hemp is processed, grown or cultivated and shall provide the location where such activities are licensed to occur. The secretary shall immediately notify the Kansas bureau of investigation and the city or county law enforcement agency with jurisdiction for the location of the licensee's address or the location where the industrial hemp is processed, grown or cultivated of any revocation or expiration of the licensee's license.}

(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.