

**Testimony Supporting HB 2173
to the House Committee on Agriculture
by Kenneth Titus, Chief Counsel
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Good afternoon Chairman Highland and members of the committee. I am Kenneth Titus and I serve as chief counsel at the Kansas Department of Agriculture. Thank you for the opportunity to provide testimony on behalf of KDA in support of the development of a state plan for the commercial production of industrial hemp. In the 2018 legislative session, SB 263 (now K.S.A. 2-3901 et seq.) was enacted, which allowed the Kansas Department of Agriculture to develop a research-based hemp program pursuant to federal law (7 U.S.C. § 5940.) That program is now in effect and will allow the growth of industrial hemp during 2019; however, federal law that enabled the research program also required that all hemp produced under the research program be produced only for research purposes.

In 2018, the United States Congress passed a new Farm Bill allowing states to establish plans for the commercial production of hemp. The Farm Bill creates conditions that will allow the commercial production of industrial hemp in every state sooner or later. There are two paths to allowing commercial hemp. The first is by developing a state plan and submitting it to the U.S. Department of Agriculture for approval. The second is to wait until the USDA develops national standards that will be effective in every state that does not develop its own commercial hemp production plan.

To follow that first path, the 2018 Farm Bill requires that state departments of agriculture, in consultation with their respective governors and attorneys general, develop state plans which are then approved by USDA. In order for KDA to develop such a plan and submit it for approval, the legislature needs to provide KDA with the necessary authority to develop and implement a state plan. Industrial hemp cannot be produced for non-research purposes without a USDA-approved plan.

A state plan is required to contain the following minimum elements:

- A licensing program that tracks the locations where hemp is grown;
- A specific procedure to test the THC level of plants grown;
- A procedure for the effective disposal of any plants grown or products produced from those plants in violation of the program;
- A procedure to deal with negligent violations (corrective action plans) or intentional violations (criminal enforcement);
- A procedure for inspecting, at a minimum, a random sample of hemp producers to ensure hemp is not being produced in violation of the program;

- A method for providing law enforcement with the growing location and other license information of growers;
- A certification the state can carry out the provisions of the plan; and
- Any other procedures the state believes are necessary to carry out its plan.

State plans may be more stringent than these requirements so long as they do not conflict with the federal requirements. The Farm Bill also limits penalties against growers who unintentionally violate the program's requirements.

HB 2173 would authorize KDA to develop a state plan that contains the minimum standards set by federal law for a commercial hemp program (licenses, location, testing, inspections, and penalties for violations) and any other necessary requirements to implement a plan through the adoption of administrative regulations.

Regarding the existing research program, the Farm Bill contains a provision that repeals the federal law that enables the research program one year after USDA develops a plan for states which did not adopt a state plan. HB 2173 allows KDA to discontinue the Kansas research program once a commercial program is in place. Along with the specific federal authorization for the research program, research can be conducted with a commercial production license and will have fewer requirements on both the grower and the state regulatory agency.

Since there is currently no timeline in place for USDA to adopt their nationwide plan for commercial hemp production and since there is no way to know for certain what regulations USDA might ultimately adopt, KDA believes that it is in the best interest of Kansas producers to move forward with a state plan for the commercial production of industrial hemp.

Thank you for your consideration. I will stand for questions at the appropriate time.