

## **Commercial Industrial Hemp; HB 2244**

**HB 2244** amends the Commercial Industrial Hemp Act (Act) to transfer registration and regulation of industrial hemp processors from the Kansas Department of Agriculture (KDA) to the State Fire Marshal (Fire Marshal). The bill also amends law regarding the disposal of industrial hemp; the definition of “hemp products”; marketing, selling, or distributing hemp products unlawfully without registration or licensure; and an exception for transportation of industrial hemp between producers and processors.

The bill takes effect upon publication in the *Kansas Register*.

### ***Effective Disposal of Industrial Hemp***

#### *Effective Disposal Plan*

The bill requires the KDA to develop a plan for effective disposal of industrial hemp in coordination with state or local law enforcement. The bill requires, when a licensed hemp processor is required to dispose of the industrial hemp, the KDA to notify state or local law enforcement in the jurisdiction where the industrial hemp is grown.

#### *Effective Disposal*

The bill authorizes the KDA to perform any action necessary to ensure effective disposal of industrial hemp occurs including, but not limited to, taking temporary possession of the industrial hemp, destroying the industrial hemp, or supervising and directing the appropriate method of effective disposal of the industrial hemp. The bill requires the state or local law enforcement agency to approve in advance any such action taken by the KDA or any person under the KDA’s direction or supervision. The bill states the KDA will have no authority to conduct effective disposal for any industrial hemp or cannabis plant produced by individuals not licensed under the Act.

The bill allows the KDA and the appropriate state or local law enforcement agency to seek reimbursement from any individual licensed under the Act for any costs incurred in conducting effective disposal of industrial hemp.

#### *Fingerprinting and Criminal History Record Checks*

The bill authorizes the Secretary of Agriculture (Secretary) to require any KDA employee or agent who participates in the effective disposal of industrial hemp to be fingerprinted and to submit to a state and national criminal history record check. The Secretary may use the information obtained to verify the identity of the employee or agent and determine whether they have been convicted of a felony violation of crimes involving controlled substances or substantially similar offense in another jurisdiction, within the ten years immediately preceding submission of the criminal history record check.

The bill authorizes the KDA to submit fingerprints to the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation (FBI) for a state and national criminal history record check. Local and state law enforcement officers and agencies are required to assist in the taking and processing of fingerprints of KDA employees or agents. Local law enforcement officers and agencies may charge a fee as reimbursement for any expenses incurred in the taking and processing of fingerprints, and the KDA is required to pay the costs of fingerprinting and state and national criminal history record checks.

### *Law Enforcement*

The bill states nothing in the provisions described above limits the jurisdiction or authority of state or local law enforcement to enforce crimes involving controlled substances.

### ***Sale of Hemp Products***

The bill allows the Fire Marshal, pursuant to the Kansas Fire Prevention Code, to issue a stop sale, use, or removal order whenever the Fire Marshal reasonably believes hemp products are being produced, sold, or distributed in violation of the Act or rules and regulations. Such stop sale, use, or removal order will be valid for up to seven calendar days. The bill prohibits a person who has been issued a stop sale, use, or removal order from processing, selling, distributing, using, or removing industrial hemp, hemp products, or hemp waste until the stop sale, use, or removal order is revoked in writing by the Fire Marshal.

### ***Definition of “Hemp Products”***

The bill adds “any extract from industrial hemp intended for further processing” to the definition of “hemp products” in continuing law. The bill states final “hemp products” may contain a tetrahydrocannabinol (THC) concentration of not more than 0.3 percent. In addition, the bill clarifies “THC concentrate” would mean the same as defined in KSA 2020 Supp. 65-6235(b)(3) [Claire and Lola’s Law].

### ***Hemp Processors***

#### *References*

The bill removes references to the KDA in continuing law regarding hemp processors and replaces them with references to the Fire Marshal. The bill also removes a reference to the Commercial Industrial Hemp Act License Fee Fund and replaces it with a reference to the Fire Marshal Fee Fund.

#### *Registration Fee*

The bill changes the date registrations for industrial hemp processors expire each year from April 30 to June 30. The bill increases the cap on registration fees from \$200 to \$1,000. The Fire Marshal sets the amounts of the registration fees through rules and regulations.

### *Fingerprinting and Criminal History Record Checks*

The bill revises the fingerprinting and criminal history record check requirements for hemp processors by replacing current requirements with the following:

- All individuals applying for a hemp processor registration who seek to engage in the extraction of cannabinoids from industrial hemp, including the disposal of cannabinoids, are required to be fingerprinted and submit to a state and national criminal history record check;
- The Fire Marshal may require current employees or those applying to be employees of a hemp processor to be fingerprinted and submit to a state and national criminal history record check;
- Fingerprints will be used to identify the individual and determine whether the individual has a record of criminal history in Kansas or any other jurisdiction;
- The Fire Marshal is authorized to submit fingerprints to the KBI and the FBI for a state and national criminal history check and may use the information obtained from the fingerprints and criminal history record check for purposes of verifying the identification of the individual and for making an official determination of the qualification and fitness of the individual to process industrial hemp pursuant to the Act and rules and regulations;
- Disclosure or use of any criminal history information for any purpose other than the purposes provided for in the Act is a class A nonperson misdemeanor (current law) and will constitute grounds for removal from office or termination of employment (new law);
- The Fire Marshal may deny registration to any individual who has violated the Act by operating as a hemp processor without valid registration or has violated any other provision of the Act;
- The KBI may charge a reasonable fee for conducting a criminal history record check, and the individual seeking authorization to extract or dispose of cannabinoids from industrial hemp is required to pay this fee; and
- Local and state law enforcement officers and agencies are required to assist in taking and processing an individual's fingerprints, as authorized by the bill.

### *Rules and Regulations; Coordination*

The bill requires the Fire Marshal to promulgate rules and regulations on topics including, but not limited to:

- Denial, conditioning, renewal, or revocation of registration;

- Creation of multiple classes of registrations based upon the scope of hemp processing activities of an applicant;
- Security measures;
- Inventory control;
- Maintenance of records;
- Access to and inspection of records and processing facilities by the Fire Marshal and law enforcement agencies;
- Collection and disposal of any cannabinoids extracted during the processing of industrial hemp that cannot be lawfully sold in Kansas; and
- Transportation of industrial hemp or hemp products.

The bill allows the Fire Marshal to grant an exemption from the application of a specific requirement of rules and regulations, unless the Fire Marshal determines the condition, structure, or activity that is or would be in noncompliance with the requirement constitutes a distinct hazard to life or property. The bill allows an exemption to be granted only upon the written request of a registrant or applicant for registration that clearly demonstrates enforcement would cause unnecessary hardship, as determined by the Fire Marshal.

The bill requires the KDA and the Fire Marshal to coordinate with one another, including providing any requested information from the other regarding industrial hemp licensees, hemp processors, and hemp processor applicants that is necessary for the enforcement of any laws or rules and regulations relating to industrial hemp.

### ***Unlawful Hemp Products; Exceptions***

The bill includes any extract from industrial hemp with a delta-9 THC concentration greater than 0.3 percent that is to be further processed in the list of hemp products that are unlawful to be marketed, sold, or distributed to any person in Kansas who is not registered as a hemp processor or who does not possess a commercial plan license.

The bill also states no license or registration is required for the transport of hemp products if the products are transported between hemp producers and hemp processors or between more than one hemp processor. This transportation of hemp products is subject to rules and regulations promulgated by the Fire Marshal.