HOUSE BILL No. 2049

By Committee on Corrections and Juvenile Justice

AN ACT concerning cannabis; relating to crimes, punishment and criminal procedure {controlled substances}; relating to possession of controlled substances; {authorizing hemp preparation treatments for seizure disorders; establishing registration of patients and preparation centers; protection from arrest, prosecution and discrimination for authorized use; reducing criminal penalties for possession of marijuana;} {enacting the alternative crop research act;} amending K.S.A. 2014 Supp. {21-5702 and} 21-5706 and repealing the existing section{sections}.

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

{Section 1. The provisions of sections 1 through 11, and amendments thereto, shall be known and may be cited as Otis's law.

Sec. 2. As used in sections 1 through 11, and amendments thereto, unless the context requires otherwise:

(a) "Cannabis" means all parts of all varieties of the plant cannabis sativa L. not exceeding 3% tetrahydrocannabinol by weight.

(b) "Cardholder" means a patient or a designated caregiver to whom the department has issued a hemp preparation registration card or who has documentation that is deemed to be a hemp preparation registration card.

(c) "Designated caregiver" means a person who:

(1) Is either at least 21 years of age or a parent of a patient;

(2) has significant responsibility for managing the well-being of a patient; and

(3) has been approved by the department to assist a patient in obtaining hemp preparations.

(d) "Department" means the department of health and environment.

(e) "Hemp preparation" means:

(1) Cannabis plant material that is no more than 3% tetrahydrocannabinol by weight; or

(2) an extract, mixture or preparation containing cannabis plant material that is no more than 3% tetrahydrocannabinol by weight.

(f) "Hemp preparation center agent" means an owner, officer, board member, employee, volunteer, contractor, property owner or
landlord of a registered hemp preparation center.

(g) "Medical hemp establishment" means a registered hemp preparation center or a registered hemp testing laboratory.

(h) "Medical use" includes the acquisition, administration, delivery, possession, purchase, transfer, transportation or use of hemp preparations and paraphernalia relating to the administration of hemp preparations to treat or alleviate a patient cardholder's qualifying medical condition.

(i) "Parent" means a parent or legal guardian responsible for the medical care of a patient under the age of 18.

(j) "Patient" means an individual who has been diagnosed with a qualifying medical condition.

(k) "Physician" means a person who is licensed by the state board of healing arts to practice medicine and surgery.

(l) "Qualifying medical condition" means a condition causing seizures, including those characteristic of epilepsy.

(m) "Registered hemp preparation center" means an entity registered pursuant to section 9, and amendments thereto, that acquires, possesses, cultivates, transports and manufactures cannabis, hemp preparations and related paraphernalia and transfers, transports, sells, supplies or dispenses hemp preparations, paraphernalia related to hemp preparations and related supplies and educational materials to cardholders, visiting cardholders and other registered hemp preparation centers.

(n) "Registered testing laboratory" means an entity registered pursuant to section 9, and amendments thereto, to analyze the safety and potency of hemp.

(o) "Registration card" means a card issued by the department pursuant to section 3, and amendments thereto.

(p) "Testing laboratory agent" means an owner, officer, board member, employee, volunteer, contractor, property owner or landlord of a registered testing laboratory.

(q) "Written certification" means a document signed and dated by a physician stating that, in the physician's professional opinion, the patient may receive therapeutic or palliative benefit from the medical use of hemp preparations to treat or alleviate the patient's qualifying medical condition or symptoms associated with such patient's qualifying medical condition.

(r) "Visiting cardholder" means a person who:

(1) Has been diagnosed with a qualifying medical condition or is the parent, child, sibling, spouse, domestic partner, grandparent, grandchild or personal aide of an individual who has been diagnosed with a qualifying medical condition;
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(2) possesses a valid registration card, its equivalent or other documentation that allows the person to possess hemp preparations in another jurisdiction pursuant to the laws of the other state, district, territory, commonwealth, insular possession of the United States or country recognized by the United States;

(3) is not a resident of Kansas or has been a resident of Kansas for less than 30 days; and

(4) has submitted any required documentation with the department, if the department has required registration.

Sec. 3. (a) The department shall issue a hemp preparation registration card to each individual who is over the age of 18 who:

(1) Provides the department with a written certification signed by a physician that was issued within 90 days immediately preceding the date of an application;

(2) pays the department a fee in an amount established by the department pursuant to section 5, and amendments thereto; and

(3) submits an application or renewal to the department on a form created by the department that contains:

(A) The individual's name and address;

(B) a copy of the individual's valid photo identification; and

(C) any other information the department reasonably considers necessary to implement the provisions of this section.

(b) The department shall issue a hemp preparation registration card to each individual who is under the age of 18 whose parent:

(1) Submits the information required of patients over the age of 18 according to subsection (a); and

(2) agrees to serve as a designated caregiver for the patient.

(c) Except as provided in subsection (d), the department shall issue a hemp preparation registration card to each designated caregiver applicant who:

(1) Is designated in a patient's application; and

(2) submits an application to the department on a form created by the department that contains:

(A) The applicant's name and address;

(B) the patient's name;

(C) a copy of the designated caregiver's valid photo identification; and

(D) any other information the department reasonably considers necessary to implement the provisions of this section.

(d) A patient may designate only one caregiver at any given time unless the patient or such patient's parent submits documentation demonstrating that a greater number of designated caregivers are needed due to the patient's age or medical condition.
(e) The department shall, not later than 30 calendar days after the date of the receipt of the completed application materials, approve the application and issue to the applicant a registration card with a unique, random identification number.

(f) Until the department issues, renews or denies a registration card, a copy of the individual's application, a copy of the patient's written certification and proof that the application was submitted to the department shall be deemed a registration card.

(g) Until the department makes applications available, a valid, written certification issued within the previous year shall be deemed a registration card for a patient.

(h) Until the department makes applications available, the following shall be deemed a designated caregiver registration card:

1. A copy of a patient's valid written certification issued within the previous year; and

2. A signed affidavit attesting that the person has significant responsibility for managing the well-being of the patient and that the person has been chosen to assist a patient in obtaining hemp preparations.

(i) Except as provided in this subsection, the expiration date of a registration card shall be one year after the date of issuance. If a physician states in the written certification that a patient would benefit from hemp preparations until a specified earlier date, then the registration card shall expire on that date.

Sec. 4. (a) The department shall maintain a confidential list of all cardholders and each cardholder's address and registry identification number. This confidential list shall not be combined or linked in any manner with any other list or database, nor shall it be used for any purpose not provided for in sections 1 through 11, and amendments thereto.

(b) The department shall treat written certifications, applications, renewals, supporting information, the names of applicants, cardholders, visiting cardholders and physicians and related records as protected health information under the health insurance portability and accountability act of 1996 (public law 104-191), exempt from disclosure under the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, and not subject to disclosure to any individual or public or private entity, except as provided in this section.

(c) Nothing in this section shall preclude the following:

1. Authorized employees of the department accessing the information to perform official duties pursuant to this act;

2. Department employees notifying state or local law enforcement, as allowed by law.
enforcement about falsified or fraudulent information submitted to
the department or of other apparent criminal violations of this act;
(3) department employees notifying the state board of healing
arts if the department has reasonable suspicion to believe a physician
violated the standard of care or for other suspected violations of this
act by a physician;
(4) the department verifying registration cards pursuant to
subsection (d);
(5) at a cardholder's request, the department confirming such
cardholder's status as a cardholder to a third party, such as a
landlord, school, medical professional or court; and
(6) provided that no identifying information pertaining to
cardholders, visiting cardholders, or physicians is disclosed:
(A) The department may release data that was voluntarily
submitted by cardholders and visiting cardholders on the effectiveness
and any side effects of medical hemp preparations to researchers at
institutions of higher education; and
(B) the department may release information on the number of
patients and designated caregivers approved, the number of registry
identification cards revoked and aggregate information from
voluntary reports on the effectiveness of medical hemp preparations
and any side effects patients have experienced.
(d) Within 120 days of the effective date of this act, the
department shall establish a secure phone or web-based verification
system. Such verification system must allow law enforcement
personnel, medical hemp establishments and medical hemp
establishment agents to enter a registry identification number and
determine whether or not the number corresponds with a current,
valid registration card. The system may disclose only whether the
registration card is valid, the name of the cardholder and whether the
cardholder is a registered patient or a designated caregiver. The
department may also include visiting cardholders in the database.
Sec. 5. (a) Not later than 120 days after the effective date of this
act, the department shall promulgate rules and regulations:
(1) Establishing the form and content of registration and renewal
applications submitted under this act;
(2) establishing the form and content of registration cards;
(3) determining the number of testing laboratories that will be
allowed in the state, which may not be fewer than two;
(4) determining the number of hemp preparation centers that will
be allowed in the state, which shall be:
(A) No fewer than is reasonably necessary to ensure safe, steady
access to hemp preparations to cardholders located throughout the
state; and
(B) no fewer than a total of three;
(5) establishing a system to numerically score competing medical
hemp establishment applicants that must include analysis of:
(A) in the case of hemp preparation centers, the suitability of the
proposed location and its accessibility for patients;
(B) the character, veracity, background and relevant experience
of principal officers and board members; and
(C) the business plan proposed by the applicant, which in the case
of hemp preparation centers shall include the ability to maintain an
adequate supply of hemp preparations, plans to ensure safety and
security of patrons and the community and procedures to be used to
prevent diversion;
(6) governing the manner in which it shall consider applications
for and renewals of registration cards, which may include creating a
standardized written certification form;
(7) governing medical hemp establishments to prevent diversion
and theft without imposing an undue burden or compromising the
confidentiality of cardholders, including:
(A) Oversight requirements;
(B) recordkeeping requirements;
(C) security requirements, including at a minimum, lighting,
physical security, transportation, waste destruction, video, and alarm
requirements;
(D) health and safety requirements, including prohibiting the use
of harmful pesticides;
(E) restrictions on advertising and signage;
(F) requirements and procedures for the safe and accurate
packaging and labeling of medical hemp including requiring:
(i) Disclosure of whether the hemp preparation is organic or non-
organic;
(ii) specifying the length of time it typically takes for a product to
take effect;
(iii) listing ingredients and possible allergens in edible and
potable preparations;
(iv) a nutritional fact panel on all edible and potable products;
and
(v) a unique serial number that will match the product with a
hemp preparation center batch and lot number so as to facilitate any
warnings or recalls;
(G) rules for random sample testing to ensure that hemp
preparations available to cardholders and visiting cardholders are
accurately labeled for content and potency in accordance with
standards established by the department to ensure the health and
safety of patient cardholders;

(H) procedures for mandatory and voluntary recalls of hemp
preparations; and

(I) reporting requirements for changes, alterations or
modifications of the premises;

(8) establishing procedures for suspending or terminating the
registration certificates or registration cards of cardholders and
medical hemp establishments that commit multiple or serious
violations of the provisions of this act or any rules and regulations
promulgated pursuant to this section; and

(9) establishing reasonable application and renewal fees for
registration cards, hemp preparation center registration certificates,
testing laboratory registration certificates and such other fees that the
department deems reasonably necessary to administer this act,
according to the following:

(A) The fees shall be no greater than the amount reasonably
necessary to cover the cost the department incurs to implement the
provisions of this act;

(B) the fees for registration cards shall be no greater than the
amount reasonably necessary to cover the cost the department incurs
processing the identification cards;

(C) the fee structure established by the department must
incorporate a sliding scale for cardholders who receive medicaid,
supplemental security income or social security disability insurance;

and

(D) the following fees shall not exceed:

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
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<tr>
<td>Hemp preparation center registration certificate application</td>
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<td>Hemp preparation center registration certificate</td>
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<td>Individual hemp preparation registration card</td>
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<tr>
<td>Visiting cardholder</td>
<td>$80</td>
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(b) The department may promulgate rules and regulations:

(1) Establishing a presumptive maximum quantity of hemp
preparations that a cardholder or a visiting cardholder may possess,
provided that:

(A) The amount should be no less than a reasonable 60-day
supply; and

(B) a patient may apply for a waiver if a physician provides a
substantial medical basis in a signed, written statement asserting that,
based on the patient's medical history, in the physician's professional
judgment, the amount established by the department is an insufficient
amount to properly alleviate the patient's medical condition or
symptoms associated with such medical condition;

(2) requiring visiting cardholders to submit a medical practitioner's statement confirming that the patient has a qualifying medical condition and documentation demonstrating that the visiting cardholder is allowed to possess cannabis or hemp preparations in the jurisdiction where such person resides, provided that:

(A) Any fee required of visiting cardholders must be no greater than the amount reasonably necessary to cover the cost the department incurs in processing their documentation and issuing any confirmation; and

(B) if the department requires visiting cardholders to submit documentation to the department, a confirmation must be issued electronically to the individual no later than seven calendar days after such documentation is submitted.

Sec. 6. (a) A cardholder or visiting cardholder shall not be subject to arrest, prosecution under state or municipal law or denial of any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for the medical use of hemp preparations pursuant to sections 1 through 11, and amendments thereto.

(b) No person may be subject to arrest, prosecution under state or municipal law or denial of any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:

(1) Selling hemp paraphernalia to a registered medical hemp establishment, a cardholder or a visiting cardholder;

(2) being in the presence or vicinity of the medical use of hemp preparations as allowed by sections 1 through 11, and amendments thereto; or

(3) assisting a patient with a registration card in the act of using or administering hemp.

(c) A hemp preparation center or hemp preparation center agent shall not be subject to prosecution under state or municipal law, search or inspection, except by the department pursuant to section 10(a), and amendments thereto, seizure or penalty in any manner or be denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to sections 1 through 11, and amendments thereto, and department rules and regulations to:

(1) Sell cannabis seeds to similar entities that are registered to dispense cannabis for medical use in other jurisdictions;

(2) acquire, cultivate, grow, harvest, manufacture, plant, possess, prepare, propagate, transport or store cannabis, hemp paraphernalia
and hemp preparations;

(3) deliver, dispense, supply, sell, transfer or transport hemp preparations, paraphernalia for use with hemp preparations or related supplies and educational materials to cardholders and visiting cardholders;

(4) deliver, dispense, transfer, transport, sell or supply cannabis seeds, cannabis seedlings, cannabis plants, cannabis, hemp preparations or related supplies and educational materials to other hemp preparation centers; or

(5) deliver, transfer or transport cannabis or hemp preparations to registered testing laboratories.

(d) A registered testing laboratory and testing laboratory agents acting on behalf of a testing laboratory shall not be subject to prosecution under state or municipal law, search, except by the department pursuant to section 10(a), and amendments thereto, seizure or penalty in any manner, or be denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or business licensing board or entity, solely for acting in accordance with this act and department rules and regulations to provide the following services:

(1) Acquiring, possessing, storing, analyzing, testing or transporting cannabis obtained from hemp preparation centers and hemp preparations obtained from cardholders, visiting cardholders or hemp preparation centers;

(2) possessing, storing or transporting hemp paraphernalia;

(3) returning the hemp preparations to cardholders or hemp preparation centers; or

(4) receiving compensation for actions allowed under this section.

(e) Mere possession of, or application for, a registration card or medical hemp establishment registration shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person, property or home of the person possessing or applying for the registration card. The possession of, or application for, a registration card or registration certificate shall not preclude the existence of probable cause if probable cause exists on other grounds.

(f) For the purposes of state law, the medical use of hemp preparations by a cardholder or visiting cardholder and activities a registered medical hemp establishment are registered to engage in shall be considered lawful as long as they are undertaken in accordance with sections 1 through 11, and amendments thereto.

Sec. 7. (a) For the purposes of medical care, including organ and tissue transplants, a patient's medical use of hemp preparations in accordance with sections 1 through 11, and amendments thereto, is the
equivalent of the authorized use of any other medication in accordance with a prescription issued by a physician and does not constitute the use of an illicit substance or otherwise disqualify a patient cardholder from needed medical care.

(b) A person otherwise entitled to custody of or visitation or parenting time with a minor shall not be denied such a right, and there shall be no presumption of neglect or child endangerment, for conduct allowed by sections 1 through 11, and amendments thereto, unless the person's actions in relation to hemp preparations were such that they created an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

Sec. 8. (a) Sections 1 through 11, and amendments thereto, do not authorize any person to engage in, and do not prevent the imposition of any civil, criminal or other penalties for engaging in the following conduct:

(1) Undertaking any task under the influence of hemp preparations when doing so would constitute negligence or professional malpractice; or

(2) operating, navigating or being in actual physical control of any motor vehicle, aircraft or motorboat while impaired by hemp preparations.

(b) Nothing in this act requires a government medical assistance program or private insurer to reimburse a person for costs associated with the medical use of hemp preparations.

Sec. 9. (a) Any person who operates a medical hemp establishment must first submit an application form to the department and receive approval. Each application must be for a single type of a medical hemp establishment.

(b) No later than 120 days after the effective date of this act, the department shall begin accepting applications for hemp preparation centers and testing laboratories.

(c) Except as otherwise provided in this act, not later than 90 calendar days after receiving an application to operate a medical hemp establishment, the department shall register the medical hemp establishment and issue a registration certificate and a random identification number if:

(1) The person or persons who wish to operate the proposed medical hemp establishment have submitted to the department all of the following:

(A) The application fee, as established by the department; and

(B) an application, which must include:

(i) The legal name of the proposed medical cannabis establishment;
(ii) the physical address where the proposed medical hemp establishment will be located and the physical address of any co-owned additional or otherwise associated medical hemp establishments, so long as the location of the proposed medical hemp establishment is not within 1,000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 which existed on the date on which the application for the proposed medical hemp establishment was submitted to the department;

(C) evidence that the applicant controls not less than $250,000 in liquid assets;

(D) evidence that the applicant owns the property on which the proposed medical hemp establishment will be located or has the written permission of the property owner to operate the proposed medical hemp establishment on that property;

(E) the name, address and date of birth of each person who is proposed to be an owner, officer or board member of the proposed medical hemp establishment;

(F) operating procedures consistent with rules and regulations of the department for oversight of the proposed medical hemp establishment, including procedures to ensure the use of adequate security measures;

(G) if the city, town or, in the case of a location in an unincorporated area, county in which the proposed medical hemp establishment will be located has enacted zoning restrictions or licensing requirements, proof of licensure with the applicable local governmental authority or an affirmation signed by the applicant that the proposed medical hemp establishment will be in compliance with those restrictions and satisfies all applicable zoning requirements; and

(H) such other information as the department may reasonably require by rules and regulations;

(2) none of the persons who are proposed to be owners, officers or board members of the proposed medical hemp establishment have served as an owner, officer or board member for a medical hemp establishment that has had its medical hemp establishment registration certificate revoked; and

(3) none of the persons who are proposed to be owners, officers or board members of the proposed medical hemp establishment are under 21 years of age.

(b) When more qualifying applications are submitted for a proposed hemp preparation center or testing laboratory than the department will approve, the department shall use an impartial and numerically scored merit-based selection process to determine which
application or applications to approve. The department may approve
the highest scoring application or applications in specific geographic
regions of the state. The department may conduct a background check
of the principal officers and board members of any prospective hemp
preparation center to carry out the provisions of this subsection.
(c) Except as otherwise provided in this act, if an application for
registration as a medical hemp establishment satisfies the
requirements of this section and the establishment is not disqualified
from being registered as a medical hemp establishment pursuant to
this act or other applicable law, the department shall issue to the
establishment a medical hemp establishment registration certificate. A
medical hemp establishment registration certificate expires two years
after the date of issuance and may be renewed upon:
(1) Submission of a renewal application; and
(2) payment of the renewal fee established by the department.
Sec. 10. (a) Medical hemp establishments are subject to
reasonable inspection by the department.
(b) A medical hemp establishment may not employ or accept as a
volunteer any person who is under 21 years of age.
(c) The operating documents of a medical hemp establishment
must include procedures for the oversight of the medical hemp
establishment and procedures to ensure accurate recordkeeping.
(d) A medical hemp establishment shall implement appropriate
security measures designed to deter and prevent:
(1) The theft of cannabis and hemp preparations; and
(2) unauthorized entrance into areas containing cannabis or
hemp preparations.
(e) Before hemp preparations may be dispensed to a cardholder
or visiting cardholder, a hemp preparation center agent must:
(1) Make a diligent effort to verify that the registration card or
other documentation presented to the hemp preparation center is
valid; and
(2) make a diligent effort to verify that the person presenting the
card is the person identified on the registration card presented to the
hemp preparation center agent.
(f) A hemp preparation center must dispense hemp preparations
in a sealed container with a label that conforms to department
regulations and that indicates the hemp preparation's ingredients and
its percentages of tetrahydrocannabinol and cannabidiol by weight.
(g) Hemp preparation centers shall collect and submit to the
department data on strains used, methods of delivery, any side effects
experienced and the therapeutic effectiveness of hemp preparations
for each patient who is willing to provide the information. Such data
collection shall be done under the patient's registry identification number to protect the patient's confidentiality.

Sec. 11. If any provision of sections 1 through 11, and amendments thereto, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the application of any other provision of this act that can be given full effect without the invalid section or application.

{New Section 12. (a) Sections 1 and 2, and amendments thereto, shall be known and may be cited as the alternative crop research act.
(b) As used in the alternative crop research act:
(1) "Certified seed" means industrial hemp seed that has been certified as having no more tetrahydrocannabinol concentration than that adopted by federal law in the controlled substances act, 21 U.S.C. § 801 et seq.
(2) "Department" means the Kansas department of agriculture.
(3) "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 certified seed for cultivation if the seeds originate from industrial hemp varieties.
(4) "Industrial hemp" means all parts and varieties of the plant cannabis sativa, cultivated or possessed by a state educational institution or the department, whether growing or not, that contain a tetrahydrocannabinol concentration of no more than that adopted by federal law in the controlled substances act, 21 U.S.C. § 801 et seq.
(5) "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purpose of seed production.
(6) "State educational institution" means the university of Kansas, Kansas state university, Wichita state university, Emporia state university, Pittsburg state university and Fort Hays state university.
(7) "Tetrahydrocannabinol" or "THC" 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.

New Sec. 13. (a) The department, alone or in coordination with a state educational institution, may cultivate industrial hemp grown from certified seed and promote the research and development of industrial hemp. This research may include:
(1) Oversight and analysis of growth of industrial hemp to conduct agronomy research and analysis of required soils, growing
conditions and harvest methods relating to the production of various
varieties of industrial hemp that may be suitable for various
commercial hemp products;
(2) seed research on various types of industrial hemp that are best
suited to be grown in Kansas, including seed availability, creation of
hybrid types, in-the-ground variety trials and seed production;
(3) analysis on the economic feasibility of developing an industrial
hemp market in various types of industrial hemp that can be grown in
Kansas;
(4) analysis on the estimated value-added benefits, including
environment benefits, that Kansas businesses would reap by having an
industrial hemp market of Kansas-grown industrial hemp varieties;
(5) a study on the agronomy research conducted worldwide
relating to industrial hemp varieties, production and utilization; and
(6) a study on the feasibility of attracting federal and private
funding for industrial hemp research.
(b) The secretary of agriculture shall have the authority to
promulgate rules and regulations to carry out the provisions of the
alternative crop research act.
(c) Nothing in the alternative crop research act shall be construed
to authorize any person to violate any federal law.

Sec. 14. K.S.A. 2014 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 alternative crop research act
or otherwise authorized by law.

Section 1. {Sec. 15.} K.S.A. 2014 Supp. 21-5706 is hereby amended
to read as follows: 21-5706. (a) It shall be unlawful for any person to
possess any opiates, opium or narcotic drugs, or any stimulant designated
in subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107(d)(1), (d)(3) or (f)
(1), and amendments thereto, or a controlled substance analog thereof.
(b) It shall be unlawful for any person to possess any of the following
controlled substances or controlled substance analogs thereof:
(1) any depressant designated in subsection (e) of K.S.A. 65-4105(e),
subection (e) of K.S.A. 65-4107(e), subsection (b) or (e) of K.S.A. 65-
4109(b) or (c) or subsection (b) of K.S.A. 65-4111(b), and amendments
thereto;
(2) any stimulant designated in subsection (f) of K.S.A. 65-4105(f),
subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107(d)(2), (d)(4), (d)(5) or (f)(2) or subsection (e) of K.S.A. 65-4109(e), and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of K.S.A. 65-4109(g), and amendments thereto;

(4) any substance designated in subsection (g) of K.S.A. 65-4105(g) and subsection (e), (d), (c), (f) or (g) of K.S.A. 65-4111(c), (d), (e), (f) or (g), and amendments thereto;

(5) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109(f), and amendments thereto;

(6) any substance designated in K.S.A. 65-4113, and amendments thereto; or

(7) any substance designated in subsection (h) of K.S.A. 65-4105(h), and amendments thereto.

(c) (1) Violation of subsection (a) is a drug severity level 5 felony; and

(2) except as provided in subsection (c)(3):

(A) Violation of subsection (b) is a class A nonperson misdemeanor, except as provided in subsection (c)(2)(B); and

(B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug severity level 5 felony if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense if the substance involved was 3, 4-methylenedioxymethamphetamine (MDMA), marihuana as designated in subsection (d) of K.S.A. 65-4105(d), and amendments thereto, or any substance designated in subsection (h) of K.S.A. 65-4105(h), and amendments thereto, or an analog thereof;

(3) if the substance involved is—marihuana as designated in K.S.A. 65-4105(d)(16), and amendments thereto, violation of subsection (b):

(A) is a class B nonperson misdemeanor, except as provided in (c)(3)(A) and (e)(3)(C);

(B) is a class A nonperson misdemeanor if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense; or

(C) is a drug severity level 5 felony if that person has two or more prior convictions under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or
under any city ordinance or county resolution for a substantially similar offense.

(d) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance or controlled substance analog.

Sec. 2. K.S.A. 2014 Supp. 21-5702 and 21-5706 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.