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Black Stem Rust Law

The Plant Pest and Agriculture Commodity Certification Act

Kansas Cotton Boll Weevil Act

Article 7. – INSECTS AND PLANT DISEASES
Article 21. – PLANT PESTS

Kansas Statutes Annotated

Black Stem Rust Law

2-712. Black stem rust, legislative declaration. It is hereby declared as a matter of legislative determination that the common barberry, Berberis vulgaris, its horticultural varieties and Berberis, Mahonia and Mahoberberis are the alternate host plants of a plant disease known as black stem rust; that the plant disease, black stem rust, is caused by an organism known as Puccinia graminis which attacks wheat, oats, barley, rye and other cultivated plants and wild grasses; that the spread of said black stem rust to the agricultural crops and wild grasses of this state cause great financial loss to the growers of these crops and to the agricultural interests of this state.

History: L. 1951, ch. 10, § 1; June 30.

2-713. Same; public nuisances. The common barberry, Berberis vulgaris, its horticultural varieties and Berberis, Mahonia and Mahoberberis (commonly known as mahonias, hollygrapes, holly barberries or Oregon grapes), are hereby declared to be public nuisances and the propagation, growth, movement or possession of said plants, including cuttings, stalks, scions, buds, fruits, seeds, or parts of plants capable of propagation, are hereby prohibited, except as herein specifically exempted.

History: L. 1951, ch. 10, § 2; June 30.

2-714. Same; destruction and control of certain plants; barberry eradication fund. The secretary of agriculture is hereby authorized to destroy or cause to be destroyed all such plants, or parts thereof capable of propagation, wherever and whenever found, and may cooperate with other agencies and individuals within the state and with the United States department of agriculture in the removal of these plants and in the control of the black stem rust disease in

agricultural crops and wild grasses. The secretary of agriculture is hereby authorized to enter into agreements with any agency of the federal government for the purpose of carrying out the common barberry eradication program. Such agreement may provide for proportionate contributions of funds for such a program and when such is the case, the agreement shall clearly state the amounts to be contributed by the federal agency and the amounts to be contributed by the Kansas department of agriculture. All funds contributed by any federal agency and the funds contributed by the Kansas department of agriculture shall be deposited in the state treasury in a fund to be known as the "barberry eradication fund," which fund is hereby created and the secretary of agriculture is hereby authorized to expend said funds in carrying out its common barberry eradication program.

History: L. 1951, ch. 10, § 3; L. 1955, ch. 5, § 1; L. 2004, ch. 101, § 12; July 1.

2-715. Same; exemption of certain plants. Such species and varieties of the Berberis, Mahonia and Mahoberberis as have been or may be tested and designated as rust-resistant or immune by the bureau of entomology and plant quarantine, United States department of agriculture, are hereby declared to be exempt from the provisions of this act.

History: L. 1951, ch. 10, § 4; June 30.

2-716. Same; enforcement of act. The secretary of agriculture shall supervise performance of all duties incident to the enforcement of this act, and acts amendatory thereof and supplemental thereto, and shall have the authority to inspect all premises to ascertain the presence of any of the prohibited plants and to destroy any and all such plants in accordance with the terms and provisions of K.S.A. 2-702, and amendments thereto, and they are further authorized and empowered to intercept, condemn or return to an out-of-state shipper at the shipper's expense all prohibited plants, or parts thereof capable of propagation.

History: L. 1951, ch. 10, § 5; L. 2004, ch. 101, § 13; July 1.

2-717. Same; penalty. Any person who violates any of the provisions of this act, or acts amendatory thereof and supplemental thereto, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in the sum of not to exceed five hundred dollars (\$500) and costs.

History: L. 1951, ch. 10, § 6; June 30.

The Plant Pest and Agriculture Commodity Certification Act

2-2112. Name of act. This act shall be known as the plant pest and agriculture commodity certification act. The authority to regulate plant pests, live plant dealers, plants and plant products and commodity certification in Kansas is vested exclusively with the secretary of agriculture.

History: L. 1965, ch. 6, § 1; L. 2002, ch. 91, § 1; July 1.

2-2113. Definitions. As used in this act: (a) "Plant pests" includes any stage of development of any insect, nematode, arachnid, or any other invertebrate animal, or any bacteria, fungus, virus, weed or any other parasitic plant or microorganism, or any toxicant, that can:

(1) Injure plants or plant products; or

(2) cause a threat to public health.

(b) "Secretary" means the secretary of the Kansas department of agriculture, or the authorized representative of the secretary.

(c) "Plants" means trees, shrubs, grasses, vines, forage and cereal plants and all other plants including growing crops; cuttings, grafts, scions, buds and all other parts of plants.

(d) "Plant products" means fruit, vegetables, roots, bulbs, seeds, wood, lumber, grains and all other plant products.

(e) "Location" means any grounds or premises on or in which live plants are propagated, or grown, or from which live plants are removed for sale, or any grounds or premises on or in which live plants are being fumigated, treated, packed, stored or offered for sale.

(f) "Live plant dealer" means any person, unless excluded by rules and regulations adopted hereunder, who engages in business in the following manner:

(1) Grows live plants for sale or distribution;

(2) buys or obtains live plants for the purpose of reselling or reshipping within this state; or

(3) plants, transplants or moves live plants from place to place within the state with the intent to plant such live plants for others and receives compensation for the live plants, for the planting of such live plants or for both live plants and plantings; or

(g) "Person" means a corporation, company, society, association, partnership, governmental agency and any individual or combination of individuals.

(h) "Permit" means a document issued or authorized by the secretary to provide for the movement of regulated articles to restricted destinations for limited handling, utilization or processing.

(i) "Host" means any plant or plant product upon which a plant pest is dependent for completion of any portion of its life cycle.

(j) "Regulated article" means any host or any article of any character as described in a quarantine or regulation carrying or being capable of carrying the plant pest against which the quarantine or regulation is directed.

(k) "Live plant" means any living plant, cultivated or wild, or any part thereof that can be planted or propagated unless specifically exempted by the rules or regulations of the secretary.

(l) "Quarantine pest" means a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.

(m) "Regulated nonquarantine pest" means a nonquarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated.

(n) "Official control" means the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated nonquarantine pest.

(o) "Regulated area" means an area into which, within which or from which plants, plant products and other regulated articles are subjected to phytosanitary regulations or procedures in order to prevent the introduction or spread of quarantine pests or to limit the economic impact of regulated nonquarantine pests.

(p) "Bee" means a honey-producing insect of the genus *Apis* including all life stages of the insect.

(q) "Beekeeping equipment" means all hives, supers, frames or other devices used in the rearing or manipulation of bees or their brood.

(r) "Toxicant" means any chemical, including an agricultural chemical as defined in K.S.A. 2-2202, and amendments thereto, or any biological substance that, if present in unsafe levels, can render a plant or plant product unsafe for human or animal consumption.

(s) "Temporary location" means an auxiliary or secondary location where live plants are offered for sale but without the infrastructure for the production or maintenance of live plants, such as a farmers market, garden show or festival.

(t) "Special event live plant dealer" means a person:

(1) Intending to sell, offer for sale or distribute live plants for five or fewer days in a calendar year as a nonprofit, charitable, educational or religious organization; or

(2) who gives live plants as a premium or for advertising purposes without selling live plants

as part of such person's business.

History: L. 1965, ch. 6, § 2; L. 1988, ch. 5, § 1; L. 2002, ch. 91, § 2; L. 2011, ch. 72, § 1; July 1; L. 2016, ch. 101, § 1; July 1; L. 2022, ch. 69, § 20; July 1.

2-2114. Secretary's duties. The secretary, either independently, or in cooperation with counties, cities, other political subdivisions of the state, federal agencies, agencies of other states or private entities may enter into contracts and agreements and may carry out official control operations or measures to locate, and to suppress, control, eradicate, prevent, contain or retard the spread of, any plant pests.

History: L. 1965, ch. 6, § 3; L. 1996, ch. 66, § 1; L. 2002, ch. 91, § 3; July 1; L. 2016, ch. 101, § 2; July 1.

2-2115. Inspections by secretary. To effectuate the purposes of this act and any rules or regulations adopted hereunder, the secretary shall have the right to:

(1) Enter any property in the state, except private dwellings, in order to:

(A) Inspect;

(B) monitor;

(C) place and inspect monitoring equipment; and

(D) obtain samples; and

(2) stop and inspect any means of conveyance moving within this state, upon reasonable suspicion to believe it contains or carries any plant pest or other article subject to this act.

(b) If access to any property sought under the provisions of this section for the purposes authorized in denied, the secretary may apply to any court of the competent jurisdiction for an order providing for such access. The court shall, upon proper application, issue an order providing for access to such property.

History: L. 1965, ch. 6, § 4; L. 2002, ch. 91, § 4; L. 2011, ch. 72, § 2; July 1

2-2116. Disposition of plant pests. Wherever the secretary finds a plant, plant product or other regulated article that is infested by a plant pest or finds that a plant pest exists on any premises in this state or is in transit in this state, the secretary may:

(a) Upon giving notice to the person in possession thereof, or agent of such person, seize, quarantine, treat or otherwise dispose of such plant pest in such manner as the secretary deems necessary to suppress, control, eradicate, prevent, contain or retard the spread of such plant pest;

(b) order such person in possession thereof, or agent of such person to so treat or otherwise dispose of such plant pest. If such person fails to comply with such order, the secretary may treat or otherwise dispose of such plant pest; or

(c) if such person is a live plant dealer, after notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act, the secretary may assess against such live plant dealer any reasonable expense incurred by the secretary in treating or otherwise disposing of such plant pest.

History: L. 1965, ch. 6, § 5; L. 2002, ch. 91, § 5; L. 2011, ch. 72, § 3; July 1; L. 2016, ch. 101, § 3; July 1.

2-2117. Quarantines; notice and hearings. The secretary is authorized to quarantine this state or any portion thereof when the secretary determines that such action is necessary to prevent or retard the spread of a plant pest or to contain a plant pest for the protection of the public health and to quarantine any other state or portion thereof whenever the secretary determines that a plant pest exists therein and that such action is necessary to prevent or retard its spread, movement or transportation into this state. Before promulgating the determination that a quarantine is necessary, the secretary, after providing due notice to interested parties, shall hold a public hearing at which any interested party may appear and be heard either in person or by

attorney. The secretary may impose a temporary quarantine for a period not to exceed 90 days during which time a public hearing, as provided in this section, shall be held if it appears that a quarantine for more than the 90-day period will be necessary to prevent, contain or retard the spread of the plant pest. The secretary may limit the application of the quarantine to the infested portion of the quarantined area and appropriate environs, to be known as the regulated area, and, without further hearing, may extend the regulated area to include additional portions of the quarantined area. Following the establishment of the quarantine, no person shall move the plant pest against which the quarantine is established or move any regulated article described in the quarantine, within, from, into or through this state contrary to the quarantine promulgated by the secretary. The quarantine may restrict the movement of the plant pest and any regulated articles from the quarantined or regulated area in this state into or through other parts of this state or other states and from the quarantined or regulated area in other states into or through this state. The secretary shall impose such inspection, disinfection, certification or permit and other requirements as the secretary shall deem necessary to effectuate the purposes of this act. The secretary is authorized to establish regulations defining pest freedom standards for live plants, plants and plant products or other regulated articles that pose risk of moving plant pests that may cause economic or environmental harm.

History: L. 1965, ch. 6, § 6; L. 2002, ch. 91, § 6; L. 2011, ch. 72, § 4; L. 2016, ch. 101, § 4; July 1.

2-2118. Inspections; fees. Upon request the secretary may provide inspection services for any person who owns or possesses plants or plant products or for certification purposes of regulated articles intended for shipment. Upon payment of the appropriate fee as established by rule and regulation and as inspection personnel are available, the inspection shall be conducted and a report or certificate setting forth the inspection results shall be issued if requested. Inspection fees shall not exceed \$45 per hour. The secretary may assess reasonable diagnostic and identification fees as established by rules and regulations adopted by the secretary. Mileage incurred shall also be paid by the person requesting the inspection at the rate established by rules and regulations. If certificate is requested an additional fee not to exceed \$50, as established by rules and regulations, plus any fee amount charged by the United States government for the acquisition of federal certificates shall be assessed. The fees for such inspection and certificate in effect on the day preceding the effective date of this act shall continue in effect until the secretary adopts rules and regulations fixing a different fee therefor under this subsection. In any case where any intended receiving state or country requires or authorizes the certification of plants or plant products, bees or beekeeping equipment or other regulated articles to be based on origin, special handling, treatment or any other procedure in addition to or in lieu of actual visual inspection of such articles, the secretary may provide such certification. The secretary may refuse to perform any inspection if the regulated article to be inspected is found to be in such condition that it cannot be adequately inspected or the environs in which the regulated article is located present a danger to the health and safety of the inspection personnel.

History: L. 1965, ch. 6, § 7; L. 1972, ch. 6, § 1; L. 1976, ch. 8, § 1; L. 1982, ch. 4, § 5; L. 1996, ch. 94, § 1; L. 2002, ch. 91, § 7; L. 2006, ch. 78, § 1; L. 2011, ch. 72, sec. 5; July 1; L. 2022, ch. 69, § 21; July 1.

2-2120. Live plant dealer's license; application fees; sale of live plants, conditions. (a) Every live plant dealer, before advertising for sale, selling, offering for sale or delivering any live plants in this state, shall procure from the secretary a live plant dealer's license for each location from which such live plant dealer engages in business as a live plant dealer, except for temporary locations that are registered with the secretary.

(b) Application for such license shall be made on a form furnished by the secretary. The fee

for each application shall be fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed \$100, excluding the plant pest emergency fee, authorized pursuant to K.S.A. 2021 Supp. 2-2129, and amendments thereto.

(c) A live plant dealer who does not export live plants from the state, has annual gross receipts under \$10,000 and has only one location, other than temporary locations, may apply for a reduced license fee. The reduced fee shall not exceed \$50, excluding the plant pest emergency fee. Application for the reduced license fee shall be made on the license application form provided by the secretary.

(d) All live plant dealer licenses shall expire on January 31, following the date of issue. Renewal of a license on or after such date of expiration shall result in a \$25 late fee, except that if a license is renewed after the March 1 immediately following such date of expiration, such late fee shall be \$50. A live plant dealer license shall not be issued until all fees are paid to the secretary.

(e) Any person who conducts business as a special event live plant dealer shall not be required to obtain a live plant dealer's license but shall register with the secretary in such form and manner as prescribed by the secretary.

(f) A live plant dealer may only engage in the live plant business with live plants that are:

(1) In compliance with all quarantines and regulated nonquarantine pest freedom standards established by the secretary; or

(2) accompanied by a valid certificate of inspection of a federal inspector or inspector of another state stating that such live plants comply with all applicable quarantines and regulated nonquarantine pest freedom standards.

History: L. 1965, ch. 6, sec. 9; L. 1972, ch. 6, sec. 2; 1982, ch. 4, sec. 6; L. 2002, ch. 91, sec. 8; L. 2011, ch. 72, sec. 6; July 1; L. 2022, ch. 69, § 22; July 1.

2-2122. Revocation of live plant dealer license; notice and hearing. The secretary, after providing notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act, may deny any application or revoke, suspend, modify or refuse to renew any license, permit or certificate issued pursuant to this act if such applicant or hold of such license, permit or certificate has;

(a) Failed to comply with any provision or requirement of this act or any rule or regulation adopted hereunder;

(b) failed to comply with any laws, rules or regulations of any other state, or the United States, related to the licensing of live plant dealers, plant pests, plants, plant products or commodity certification; or

(c) had any license, certificate or permit issued by any other state or the United States, related to the licensing of live plant dealers, plant pests, plants or plant products revoked, suspended or modified.

History: L. 1965, ch. 6, sec. 11; L. 1988, ch. 356, sec. 30; L. 2002, ch. 91, sec. 9; L. 2010, ch. 60, sec. 2; L. 2011, ch. 72, sec. 7; July 1.

2-2123. Unlawful to ship live plants or other articles not in compliance with act; tags or labels; electronic or mail order sales. (a) Any live plants sold, delivered, transported or shipped into or within this state by a live plant dealer shall be accompanied by a tag, label, itemized bill of lading, receipt or other document on which shall appear the name and address of the consigner or shipper, a description of the contents and the place of origin.

(b) All live plants and regulated articles shipped or moved into this state shall be accompanied by valid documentation issued by the proper official of the state, territory, district or country from which it was shipped or moved, showing that such live plants or regulated articles are in compliance with quarantines and regulated pest freedom standards as established by the secretary.

(c) Live plants brought into the state under a document, as required by this section, may be sold and moved under a valid Kansas live plant dealer license, and this shall not preclude inspection by the secretary at any time within the state.

(d) Electronic or mail order sales of live plants are subject to the provisions of this act.

History: L. 1965, ch. 6, sec. 12; L. 2002, ch. 91, sec. 10; L. 2011, ch. 72, sec. 8; July 1

2-2124. Violations. (a) It shall be a violation of this act for any person to:

(1) Sell, barter, offer for sale, or move, transport, deliver, ship or offer for shipment into or within this state any plant pests in any living stage without first obtaining approval for such shipment from the secretary;

(2) hinder or prevent the secretary from carrying out duties under this act;

(3) fail to carry out the treatment or destruction of any plant pest or regulated article in accordance with official notification from the secretary;

(4) sell, transport, deliver, distribute, offer or expose for sale live plants which are not in compliance with the provisions of this act;

(5) engage in business as a live plant dealer and use an invalid, suspended or revoked certificate of inspection, permit or live plant dealer license;

(6) fail to comply with any of the provisions of this act, or the rules and regulations adopted hereunder; and

(7) knowingly move any regulated article into this state from a quarantined area when such article has not been treated or handled as provided by the requirements of said quarantine at the point of origin of such article.

(b) Each day a violation of this act occurs or continues shall constitute a separate violation.

(c) The district court shall have jurisdiction over violations of this act or rules and regulations adopted hereunder. Such court may issue temporary restraining orders without first requiring proof that an adequate remedy at law does not exist. Any such order shall be issued without bond. Such order may be issued prior to the initiation of any criminal, administrative or civil penalty proceedings.

History: L. 1965, ch. 6, sec. 13; L. 1976, ch. 8, sec. 3; L. 2002, ch. 91, sec. 11; L. 2011, ch. 72, sec. 9; July 1

2-2125. Penalties for violations. (a) Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$25 nor more than \$500.

(b) The secretary, after providing notice and opportunity for a hearing, in accordance with the Kansas administrative procedure act, may assess a civil penalty against any person who violates or fails to comply with the requirements of this act, or any rules or regulations adopted hereunder, of not less than \$100 nor more \$2,000 per violation. A separate civil penalty may be assessed for each separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law.

History: L. 1965, ch. 6, sec. 14; L. 2002, ch. 91, sec. 12; L. 2011, ch. 72, sec. 10; July 1

2-2126. Rules and regulations. The secretary shall adopt, amend and repeal such rules and regulations as, in the discretion of the secretary, are necessary for the administration and enforcement of the provisions of this act.

History: L. 1965, ch. 6, sec. 15; L. 2001, ch. 175 sec. 2; L. 2002, ch. 91, sec. 13; L. 2011, ch. 72, sec. 11; July 1

2-2127. Invalidity of part. If any clause, sentence, paragraph, section, or part of this act shall for any reason be declared unconstitutional by any court of competent jurisdiction it shall not affect the validity or constitutionality of any remaining sentence, clause, paragraph, section or part of

this act.

History: L. 1965, ch. 6, § 16; June 30.

2-2128. Disposition of moneys received; entomology fee fund. The secretary shall remit all moneys received by or for the secretary under article 21 of chapter 2 of Kansas Statutes Annotated, and amendments thereto, 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 plant protection fee fund. All expenditures from such 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.

(b) The entomology fee fund is hereby redesignated the plant protection fee fund.

History: L. 1965, ch. 6, sec. 17; L. 1973, ch. 2, sec. 2; L. 2001, ch. 5 sec. 14; L. 2002, ch. 91, sec. 14; L. 2011, ch. 72, sec. 12 July 1

2-2129. Plant pest emergency response fund. (a) There is hereby created a plant pest emergency response fund in the state treasury. Such fund shall be funded by a fee assessed in addition to the fees assessed a live plant dealer under article 21 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto. The additional fee shall be fixed by rules and regulations adopted by the secretary of agriculture, except that such additional fee shall not exceed \$5 annually on each live plant dealer license. The secretary is authorized and empowered to collect the fees provided in this section.

(b) The secretary is authorized and empowered to make expenditures from the plant pest emergency response fund and that in the discretion of the secretary mitigate pests that have been identified by the secretary as high risk pests having the potential to damage agriculture, horticulture or the environment. Such expenditures may include the costs of enforcement to protect against high risk pests identified by the secretary. All expenditures from such 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.

(c) The plant pest emergency response fund shall be a fund separate and distinct from the plant protection fee fund referred to in K.S.A. 2-2128, and amendments thereto.

(d) The provisions of this section shall be part of and supplemental to this act.

History: L. 2001, ch. 175 sec. 1; L. 2002, ch. 91, sec. 15; L. 2011, ch. 72, sec. 13; July 1

2-2135. History: L. 2005, ch. 8, § 1; July 1; Repealed, L. 2022, ch. 69, § 27; July 1.

2-2136. History: L. 2005, ch. 8, § 2; July 1; Repealed, L. 2022, ch. 69, § 27; July 1.

2-2137. History: L. 2005, ch. 8, § 3; July 1; Repealed, L. 2022, ch. 69, § 27; July 1.

2-2138. History: L. 2005, ch. 8, § 4; July 1; Repealed, L. 2022, ch. 69, § 27; July 1.

2-2139. History: L. 2005, ch. 8, § 5; July 1; Repealed, L. 2022, ch. 69, § 27; July 1.

2-2140. History: L. 2005, ch. 8, § 6; July 1; Repealed, L. 2022, ch. 69, § 27; July 1.

2-2141. History: L. 2005, ch. 8, § 7; July 1; Repealed, L. 2022, ch. 69, § 27; July 1.

Kansas Cotton Boll Weevil Act

2-2144. Title and citation of act. K.S.A. 2-2144 through 2-2151, and amendments thereto, shall be known and may be cited as the Kansas cotton boll weevil act.

History: L. 2022, ch. 69, § 1; July 1.

2-2145. Definitions. As used in K.S.A. 2-2144 through 2-2151, and amendments thereto:

(a) "Act" means the Kansas cotton boll weevil act.

(b) "Board" means the board of directors of the Kansas cotton boll weevil program established by K.S.A. 2-2146, and amendments thereto.

(c) "Cotton pest" means *Anthonomus grandis* Boheman, commonly known as boll weevils, or any other pest that may infest, destroy or otherwise inhibit the growth of cotton.

(d) "Grower" means any person engaged in the growing of cotton in this state who owns such cotton or shares in the ownership and risk of loss of such cotton, whether as a landlord or tenant.

(e) "Person" means a natural person, public or private corporation, partnership, association or other legal entity.

(f) "Secretary" means the secretary of agriculture or the secretary's designee.

History: L. 2022, ch. 69, § 2; July 1.

2-2146. Establishment of Kansas cotton boll weevil program; board of directors; membership; vacancies; terms; required meetings. (a) There is hereby established the Kansas cotton boll weevil program.

(b) The board of directors of the Kansas cotton boll weevil program is hereby established to administer and implement the Kansas cotton boll weevil program. The board shall consist of:

(1) Five voting members; and

(2) three ex officio nonvoting members, as provided in subsection (f).

(c) After the effective date of this act, the board of directors of the Kansas cotton association shall submit seven nominations to the secretary of agriculture. The secretary of agriculture shall appoint five voting members to the board from among such nominees.

(d) Upon a vacancy in the board or at least 30 days prior to the expiration of the term of any voting member of the board, the board of directors of the Kansas cotton association shall submit three nominations to the secretary of agriculture for each such vacancy or expiring term. The secretary of agriculture shall appoint a voting member to the board from among the growers of the state from among such nominees.

(e) (1) Except as provided in paragraph (2), each appointed board member shall serve a term of four years. Board members appointed to fill a vacancy for an unexpired term shall serve for the remainder of such unexpired term. (2) Two of the board members first appointed on and after the effective date of this act shall be appointed for a term of two years.

(f) The dean of the college of agriculture of Kansas state university or the dean's designee, the secretary or the secretary's designee and the Kansas cotton association chairman or the chairman's designee shall serve as ex officio, nonvoting members of the board.

(g) The board shall annually elect a chairperson from the voting members of the board.

(h) The board shall meet at least once every calendar year in conjunction with the Kansas cotton association's annual meeting.

History: L. 2022, ch. 69, § 3; July 1.

2-2147. Powers and duties of board of directors; requirements for individuals conducting inspections or setting or monitoring traps. (a) In order to administer and implement the Kansas cotton boll weevil program, the board shall have the authority to:

- (1) Establish and implement a cotton pest monitoring plan that shall include the following:
 - (A) The development and distribution of educational materials; and
 - (B) authority for the board's designee to enter private property to:
 - (i) Subject to the notice requirements of subsection (b), perform inspections of any cotton field upon such private property for the purpose of determining whether an infestation of cotton exists or whether cotton pests are present on the property; and
 - (ii) subject to the notice requirements of subsection (b), set traps and monitor such traps;
- (2) accept grants and donations;
- (3) sue and be sued;
- (4) appoint and compensate an administrator who is knowledgeable about the cotton industry and establish an office for such administrator at any place in the state selected by the board. With the approval of the board, the administrator may appoint other personnel as needed; and
- (5) enter into such contracts as may be necessary or advisable for the purposes of this act, including, but not limited to, collection of the assessment, or coordination with any local, state or national organization or agency, whether private or created by state or federal law, engaged in work or activities similar to the work and activities of the board.

(b) Any individual conducting an inspection or setting or monitoring traps pursuant to a cotton pest monitoring plan shall, before or immediately upon entering any premises:

- (1) Notify the owner, operator or lessee of the premises of the purpose for such entry; and
- (2) allow any such present and notified owner, operator or lessee of the premises, or any representative thereof, to accompany the individual conducting the inspection or setting or monitoring traps.

History: L. 2022, ch. 69, § 4; July 1.

2-2148. Cotton pest eradication plan; implementation in coordination with secretary. If the presence of boll weevils or any other cotton pest is discovered within the state, the board may authorize the development of an eradication plan and implement such plan in coordination with the secretary pursuant to the plant pest and agriculture commodity certification act, K.S.A. 2-2112 et seq., and amendments thereto.

History: L. 2022, ch. 69, § 5; July 1.

2-2149. Assessment levy on cotton; collection and disposition of assessment moneys; authorized expenditures. (a) There is hereby levied an assessment set by the board not to exceed \$2 per cotton bale. The assessment shall be reviewed, set and communicated annually to growers.

(b) The assessment imposed shall be levied on a grower at the time of deposit at the cotton gin and shall be collected and remitted to the board as follows:

- (1) If an in-state cotton gin serves as the selling agent for the cotton products, such cotton gin shall:
 - (A) Collect the assessment on behalf of the grower at the time of deposit at the gin by deducting the assessment from the ginning price of the cotton as a ginning cost or from any funds advanced for ginning costs;
 - (B) provide monthly reports to the board on or before the 15th day of each month regarding the assessments collected;
 - (C) remit all of the assessments collected each month to the board;
 - (D) provide the board with any other information reasonably requested by the board to ensure the collection of the assessments for each grower; and

(E) provide a copy of the sales invoice or other document evidencing the transaction to the grower that shows the amount of the assessment collected.

(2) If an out-of-state cotton gin is serving as the selling agent for the cotton produced, such gin may, subject to any contract with the board:

(A) Collect the assessment on behalf of the grower at the time of deposit at the gin; and

(B) remit all of the assessments collected each month to the board.

(c) Each cotton gin that is required to collect an assessment pursuant to this section shall forward to the board by June 1 of each year:

(1) An accounting of all assessments collected and paid; and

(2) payment for all assessments previously collected but not paid.

(d) All funds expended by the board in the administration of this act and for the payment of all claims arising out of the performance or neglect of any duties or activities pursuant to this act shall be paid from the proceeds derived from the assessment levied pursuant to this section.

(e) Each bank account used for operating and conducting the boll weevil program's duties shall be secured by pledge of securities in the manner prescribed for state bank accounts under K.S.A. 75-4218, and amendments thereto, or, if such bank account is in an institution outside the state of Kansas, the institution shall be licensed by a state or the federal government.

(f) All money collected from the assessments levied pursuant to this section shall be expended in the administration of this act, and for the payment of claims based upon obligations incurred in the performance of the activities and functions set forth in this act, and for no other purpose.

History: L. 2022, ch. 69, § 6; July 1.

2-2150. Criminal penalty for violations of act. Any violation of this act shall be a class C nonperson misdemeanor.

History: L. 2022, ch. 69, § 7; July 1.

2-2151. Discontinuation of Kansas cotton boll weevil program or activity thereunder; requirements. (a) The boll weevil program, or any activity conducted under the program, may be discontinued upon resolution of the program or such activity and with approval by the secretary, if the board determines that the program or such activity is no longer necessary or reasonable to operate pursuant to this act.

(b) (1) Prior to any such dissolution of the boll weevil program, the board shall file a final report with the secretary, including a financial report, and submit all remaining funds into the Kansas cotton association. Final books of the boll weevil program shall be filed with the secretary and are subject to audit by the secretary.

(2) The secretary shall pay from the boll weevil program remaining funds all of the program's outstanding obligations and may continue to collect assessments until all such obligations are paid.

(3) Funds remaining after payment under paragraph (2) shall be returned to the Kansas cotton association.

(4) The secretary shall provide a final report to the legislature upon conclusion of all activities related to the dissolution of the program.

History: L. 2022, ch. 69, § 8; July 1.