

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 657

FINAL READING

Introduced by Wayne, 13; Hunt, 8; Slama, 1; Murman, 38; Brandt, 32;
Kolterman, 24; Hansen, M., 26.

Read first time January 23, 2019

Committee: Agriculture

- 1 A BILL FOR AN ACT relating to agriculture; to amend sections 2-5701 and
- 2 28-401, Revised Statutes Cumulative Supplement, 2018; to adopt the
- 3 Nebraska Hemp Farming Act; to change provisions relating to the
- 4 industrial hemp agricultural pilot program and define and redefine
- 5 terms; to define and redefine terms under the Uniform Controlled
- 6 Substances Act; to provide severability; to repeal the original
- 7 sections; and to declare an emergency.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 19 of this act shall be known and may be
2 cited as the Nebraska Hemp Farming Act.

3 Sec. 2. It is the policy of this state that hemp is recognized as a
4 viable agricultural crop. The purpose of the Nebraska Hemp Farming Act is
5 to:

6 (1) Align state law with federal law regarding the cultivation,
7 handling, marketing, and processing of hemp and hemp products;

8 (2) Promote the cultivation and processing of hemp and open up new
9 commercial markets for farmers and businesses through the sale of hemp
10 products;

11 (3) Establish testing and compliance procedures;

12 (4) Promote the expansion of Nebraska's hemp industry to the maximum
13 extent permitted by law and allow farmers and businesses to cultivate,
14 handle, and process hemp and sell hemp products for commercial purposes;

15 (5) Encourage and empower research into hemp cultivation and the
16 processing of hemp products at postsecondary institutions in the state
17 and in the private sector; and

18 (6) Return Nebraska to the forefront of the hemp industry.

19 Sec. 3. For purposes of the Nebraska Hemp Farming Act:

20 (1) Broker means a person who engages or participates in the
21 marketing of hemp by acting as an intermediary or negotiator between
22 prospective buyers and sellers;

23 (2) Commercial sale means the sale of products in the stream of
24 commerce, at retail, wholesale, and online;

25 (3) Commission means the Nebraska Hemp Commission;

26 (4) Cultivate or cultivating means planting, watering, growing, and
27 harvesting a hemp plant or crop;

28 (5) Cultivator means a person who cultivates hemp;

29 (6) Department means the Department of Agriculture;

30 (7) Director means the Director of Agriculture or his or her
31 designee;

1 (8) Federally defined THC level for hemp means a delta-9
2 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry
3 weight basis as defined in section 10113 of the federal Agriculture
4 Improvement Act of 2018, Public Law 115-334, as such section existed on
5 January 1, 2019;

6 (9) GPS coordinates means latitude and longitude coordinates derived
7 from a global positioning system;

8 (10) Handle or handling means possessing or storing hemp plants for
9 any period of time on premises owned, operated, or controlled by a person
10 licensed to cultivate or process hemp. Handle or handling also includes
11 possessing or storing hemp plants in a vehicle for any period of time
12 other than during its actual transport from the premises of a person
13 licensed to cultivate or process hemp to the premises of another licensed
14 person. Handle or handling does not include possessing, storing, or
15 transporting finished hemp products;

16 (11) Hemp means the plant Cannabis sativa L. and any part of such
17 plant, including the viable seeds of such plant and all derivatives,
18 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
19 whether growing or not, with a delta-9 tetrahydrocannabinol concentration
20 of not more than 0.3 percent on a dry weight basis. Hemp shall be
21 considered an agricultural commodity. Notwithstanding any other provision
22 of law, hemp shall not be considered a controlled substance under the
23 Uniform Controlled Substances Act;

24 (12) Licensee means an individual or a business entity possessing a
25 license issued by the department under the Nebraska Hemp Farming Act to
26 cultivate, handle, process, or broker hemp;

27 (13) Location ID means the unique identifier established by a
28 licensee for each unique set of GPS coordinates where hemp is cultivated,
29 handled, or processed;

30 (14) Nebraska heirloom cannabis plant or seed means a hemp plant or
31 seed from the plant Cannabis sativa L. that possesses characteristics of

1 a unique and specialized cannabis seed variety that is present in
2 Nebraska or has been recognized as produced in Nebraska;

3 (15) Person means an individual, partnership, corporation, limited
4 liability company, association, postsecondary institution, or other legal
5 entity;

6 (16) Postsecondary institution means a postsecondary institution as
7 defined in section 85-2403 that also meets the requirements of 20 U.S.C.
8 1001, as such section existed on January 1, 2019;

9 (17) Process or processing means converting hemp into a marketable
10 form;

11 (18) Processor-handler means a person who handles or processes hemp;

12 (19) Site means an area defined by the same legal description in a
13 field, greenhouse, or other outdoor area or indoor structure;

14 (20) Testing facility means a testing facility approved by the
15 department; and

16 (21) THC means tetrahydrocannabinol.

17 Sec. 4. (1) Notwithstanding any other provision of law, it shall be
18 lawful:

19 (a) For a licensee or his or her employee or agent to cultivate,
20 handle, process, or broker hemp in Nebraska and to transport hemp outside
21 of Nebraska; and

22 (b) To possess, transport, sell, and purchase lawfully produced hemp
23 products.

24 (2) The department shall establish, operate, and administer a
25 program to license and regulate cultivators, processor-handlers, and
26 brokers that meets the requirements of section 10113 of the federal
27 Agricultural Improvement Act of 2018, Public Law 115-334, as such section
28 existed on January 1, 2019, and the Nebraska Hemp Farming Act. Nebraska
29 heirloom cannabis plant or seed not being cultivated for commercial
30 purposes is not subject to the Nebraska Hemp Farming Act.

31 (3) The department may adopt and promulgate rules and regulations to

1 implement the Nebraska Hemp Farming Act and administer programs,
2 including, but not limited to, the following:

3 (a) Practices to maintain relevant information regarding land where
4 hemp is cultivated, handled, or processed in the state, including a legal
5 description of such land, for a period of not less than three calendar
6 years;

7 (b) Procedures governing the sampling, chain of custody, and testing
8 of hemp cultivated, handled, or processed in the state;

9 (c) Procedures for the effective destruction of plants cultivated,
10 handled, or processed in violation of the Nebraska Hemp Farming Act and
11 hemp products made from those plants;

12 (d) Procedures implementing enforcement provisions outlined in the
13 Nebraska Hemp Farming Act, including factors to be considered when
14 issuing administrative fines;

15 (e) A procedure for conducting, at a minimum, annual inspections of
16 a random sample of hemp cultivators to verify that hemp is not cultivated
17 in violation of the Nebraska Hemp Farming Act or the state plan as
18 described in section 16 of this act;

19 (f) A procedure for submitting required information to the United
20 States Secretary of Agriculture not more than thirty days after the
21 information is received; and

22 (g) Any other standard, practice, or procedure required by the
23 Nebraska Hemp Farming Act.

24 Sec. 5. (1) Hemp may only be cultivated by a person meeting the
25 requirements of section 2-5701 or in compliance with this section.

26 (2) Before a person may be licensed to cultivate hemp, such person
27 shall submit an application on a form prescribed by the department that
28 includes, but is not limited to, the following:

29 (a) If the applicant is an individual, the applicant's full name,
30 birthdate, mailing address, telephone number, and valid email address;

31 (b) If the applicant is an entity and not an individual, the name of

1 the applicant, mailing address, telephone number, and valid email
2 address, the full name of each officer, director, partner, member, or
3 owner owning in excess of ten percent of equity or stock in such entity,
4 and the birthdate, title, mailing address, telephone number, and valid
5 email address of each such person;

6 (c) The proposed acreage to be cultivated or the square footage of a
7 greenhouse or other indoor space to be cultivated;

8 (d) The street address, legal description, location ID, and GPS
9 coordinates for each field, greenhouse, building, or other site where
10 hemp will be cultivated. The site information may be verified by the
11 department; and

12 (e) Maps depicting each site where hemp will be cultivated, with
13 appropriate indications for entrances, field boundaries, and specific
14 locations corresponding to the GPS coordinates provided under subdivision
15 (d) of this subsection.

16 (3) Before a person may be licensed to cultivate hemp, such person
17 shall submit with the application a nonrefundable application fee as set
18 by the department pursuant to section 8 of this act.

19 (4) Before a person may be licensed to cultivate hemp, such person
20 shall submit with the application a site registration fee as set by the
21 department pursuant to section 8 of this act. The site registration fee
22 shall be paid for each separate site where the applicant will cultivate
23 hemp. Subsequent modifications to the sites listed in the application
24 shall be submitted on forms prescribed by the department along with a
25 site modification fee and shall only take effect upon written approval of
26 the department. The applicant must certify that all sites where hemp is
27 to be cultivated are under the control of the applicant and that the
28 department shall have unlimited access to all such sites.

29 (5) After the department receives approval by the United States
30 Secretary of Agriculture for the state plan described in section 16 of
31 this act, an initial cultivator license application may be submitted at

1 any time, except that the department may set a cut-off date for
2 applications ahead of the growing season. An initial cultivator license
3 issued by the department expires on December 31 in the calendar year for
4 which it was issued.

5 (6) A renewal application for a license to cultivate hemp shall be
6 submitted on forms prescribed by the department. A renewal application is
7 due by December 31 and shall be accompanied by the cultivator license fee
8 and the site registration fee for all sites listed in the renewal
9 application. The renewal cultivator license is valid from January 1 or
10 when the license is granted, whichever is later, through December 31 next
11 following.

12 (7) A cultivator license shall lapse automatically upon a change of
13 ownership or location, and a new license must be obtained. The licensee
14 shall promptly provide notice of change in ownership or location to the
15 department.

16 (8) An application and supporting documents submitted to the
17 department under this section are not public records subject to
18 disclosure pursuant to sections 84-712 to 84-712.09. Such information may
19 be submitted to the United States Department of Agriculture pursuant to
20 the requirements of section 10113 of the federal Agricultural Improvement
21 Act of 2018, Public Law 115-334, as such section existed on January 1,
22 2019, or any other federal statute, rule, or regulation, and may be
23 submitted to law enforcement.

24 Sec. 6. (1) Except for approved testing facilities, a person shall
25 not process, handle, or broker hemp in this state unless the person meets
26 the requirements of section 2-5701 or is in compliance with this section
27 and licensed as a processor-handler or broker under the Nebraska Hemp
28 Farming Act.

29 (2) Before a person other than an approved testing facility may be
30 licensed to process, handle, or broker hemp in this state, such person
31 shall submit an application on a form prescribed by the department that

1 includes, but is not limited to, the following:

2 (a) If the applicant is an individual, the applicant's full name,
3 birthdate, mailing address, telephone number, and valid email address;

4 (b) If the applicant is an entity and not an individual, the name of
5 the applicant, mailing address, telephone number, and valid email
6 address, the full name of each officer and director, partner, member, or
7 owner owning in excess of ten percent of equity or stock in such entity,
8 and the birthdate, title, mailing address, telephone number, and valid
9 email address of each such person;

10 (c) The street address, legal description, location ID, and GPS
11 coordinates for the site where hemp will be processed or handled, if
12 applicable; and

13 (d) Maps depicting the site where hemp will be processed or handled,
14 if applicable, with appropriate indications for entrances and specific
15 locations corresponding to the GPS coordinates provided under subdivision
16 (c) of this subsection.

17 (3) Before a person other than an approved testing facility may be
18 licensed to process, handle, or broker hemp, such person shall submit
19 with the application a nonrefundable application fee as set by the
20 department pursuant to section 8 of this act.

21 (4) Before a person other than an approved testing facility may be
22 licensed to process or handle hemp, such person shall submit with the
23 application a nonrefundable site registration fee as set by the
24 department pursuant to section 8 of this act. The site registration fee
25 shall be paid for each separate site where hemp is processed or handled.
26 Subsequent modifications to the sites listed in the application shall be
27 submitted on forms prescribed by the department along with the site
28 modification fee and shall only take effect upon written approval of the
29 department. The applicant must certify that all sites where hemp is to be
30 processed or handled are under the control of the applicant and that the
31 department shall have unlimited access to all such sites.

1 (5) After the department receives approval by the United States
2 Secretary of Agriculture for the state plan submitted pursuant to section
3 16 of this act, an initial processor-handler or broker license
4 application may be submitted at any time. An initial processor-handler or
5 broker license issued by the department expires on December 31 in the
6 calendar year for which it was issued.

7 (6) A renewal application for a processor-handler or broker license
8 shall be submitted on forms prescribed by the department. A renewal
9 application is due by December 31 and shall be accompanied by the
10 processor-handler or broker license fee and, if applicable, the site
11 registration fee for all sites listed in the renewal application. The
12 renewal processor-handler or broker license is valid from January 1 or
13 when the license is granted, whichever is later, through December 31 next
14 following.

15 (7) A processor-handler or broker license shall lapse automatically
16 upon a change of ownership or location, and a new license must be
17 obtained. The licensee shall promptly provide notice of change in
18 ownership or location to the department.

19 (8) A processor-handler licensee who also brokers hemp shall not be
20 required to also obtain a broker license under this section.

21 (9) An application and supporting documents submitted to the
22 department under this section are not public records subject to
23 disclosure pursuant to sections 84-712 to 84-712.09. Such information may
24 be submitted to the United States Department of Agriculture pursuant to
25 the requirements of section 10113 of the federal Agricultural Improvement
26 Act of 2018, Public Law 115-334, as such section existed on January 1,
27 2019, or any other federal statute, rule, or regulation, and may be
28 submitted to law enforcement.

29 Sec. 7. (1) The department may adopt and promulgate rules and
30 regulations governing the approval and denial of cultivator, processor-
31 handler, and broker license applications. Such applications shall be

1 denied if they are incomplete or deficient, or if the applicant does not
2 meet minimum qualifications, including, but not limited to:

3 (a) The applicant, if an individual, is at least eighteen years of
4 age;

5 (b) The site registered by the applicant is located in this state;

6 (c) The applicant has no unpaid fees or fines owed to the state
7 under the Nebraska Hemp Farming Act;

8 (d) The applicant has not had a cultivator, processor-handler, or
9 broker license revoked in the five years preceding the date of
10 application; or

11 (e) Any individual listed in the application for a cultivator,
12 processor-handler, or broker license has not been convicted of a felony
13 related to a controlled substance under either state or federal law
14 within the preceding ten years.

15 (2) If an application is incomplete or deficient, the department
16 shall, in a timely manner, notify the applicant in writing describing the
17 reason or reasons and request additional information. If such application
18 is not corrected or supplemented within thirty days after the
19 department's request, the department shall deny the application.

20 (3) Any person who intentionally and materially falsifies any
21 information contained in an application under the Nebraska Hemp Farming
22 Act shall be ineligible to obtain a license to operate as a cultivator,
23 processor-handler, or broker.

24 (4) A person aggrieved by the denial of a license may request a
25 hearing pursuant to section 13 of this act.

26 Sec. 8. (1) License fees under the Nebraska Hemp Farming Act are
27 due on or before December 31 and shall be in the amount listed in column
28 A of subsection (2) of this section. The fees due on or before December
29 31, 2019, and by each December 31 thereafter shall be set by the director
30 on or before July 1 of each year. The director may raise or lower such
31 fees each year to meet the criteria in this subsection, but the fee shall

1 not be greater than the amount in column B of subsection (2) of this
2 section. The same percentage shall be applied to each category for all
3 fee increases or decreases. The director shall use the fees in column A
4 of subsection (2) of this section as a base for future fee increases or
5 decreases. The director shall determine the fees based on estimated
6 annual revenue and fiscal year-end cash fund balances as follows:

7 (a) The estimated annual revenue shall not be greater than one
8 hundred seven percent of program cash fund appropriations allocated for
9 the Nebraska Hemp Farming Act; and

10 (b) The estimated fiscal year-end cash fund balance shall not be
11 greater than seventeen percent of program cash fund appropriations
12 allocated for the act.

13 (2) Fees.

14	<u>Fees</u>	<u>A</u>	<u>B</u>
15	<u>Cultivator, processor-handler, and</u>		
16	<u>broker license application fee</u>	<u>\$100</u>	<u>\$150</u>
17	<u>Cultivator site registration fee</u>	<u>\$400 per site</u>	<u>\$600 per site</u>
18	<u>Processor-handler site</u>		
19	<u>registration fee</u>	<u>\$800 per site</u>	<u>\$1,200 per site</u>
20	<u>Site modification fee</u>	<u>\$50</u>	<u>\$75</u>

21 (3) Any fee remaining unpaid for more than one month shall be
22 considered delinquent and the person owing the fee shall pay an
23 additional administrative fee of twenty-five percent of the delinquent
24 amount for each month it remains unpaid, not to exceed one hundred
25 percent of the original amount due. The department may waive the
26 additional administrative fee based upon the existence and extent of any
27 mitigating circumstances that have resulted in the late payment of such
28 fee. The purpose of the additional administrative fee is to cover the
29 administrative costs associated with collecting fees, and all money
30 collected as an additional administrative fee shall be remitted to the
31 State Treasurer for credit to the Nebraska Hemp Program Fund.

1 Sec. 9. The Nebraska Hemp Program Fund is established. The fund
2 shall be administered by the department for the purpose of covering the
3 costs of the department in administering sections 4 to 16 of this act and
4 section 2-5701. The fund may receive appropriations by the Legislature,
5 gifts, grants, federal funds, and any other funds both public and
6 private. All fees collected by the department under section 8 of this act
7 and section 2-5701 shall be remitted to the State Treasurer for credit to
8 the fund. Any money in the fund available for investment shall be
9 invested by the state investment officer pursuant to the Nebraska Capital
10 Expansion Act and the Nebraska State Funds Investment Act.

11 Sec. 10. (1) A cultivator, processor-handler, or broker consents to
12 all of the following:

13 (a) A background check for any felony controlled substance charge in
14 the ten years prior to the time of application completed by the
15 department or a law enforcement agency at the direction of the
16 department, at any time, for all of the individuals listed on the
17 cultivator's, processor-handler's, or broker's application at the
18 applicant's expense, which shall be in addition to the application and
19 registration fees;

20 (b) Entry onto, and inspection of, all registered sites by the
21 department or by persons at the direction of the department, with or
22 without cause, and with reasonable advance notice;

23 (c) Testing of samples of any hemp or hemp material;

24 (d) Destruction of any of the following:

25 (i) Hemp found to have a measured delta-9 tetrahydrocannabinol
26 concentration greater than that allowed by the Nebraska Hemp Farming Act;

27 (ii) Hemp intended for commercial purposes that is present at a
28 location not included in a cultivator's or processor-handler's
29 application; and

30 (iii) Hemp that is cultivated, processed, handled, or brokered in a
31 manner that violates the Nebraska Hemp Farming Act or the rules and

1 regulations adopted and promulgated thereunder; and

2 (e) Inspections by the department, at least annually, of cultivators
3 and processor-handlers to verify that hemp is not cultivated, processed,
4 or handled in violation of the Nebraska Hemp Farming Act.

5 (2) A cultivator, processor-handler, or broker acknowledges that all
6 risk of financial loss under the Nebraska Hemp Farming Act is borne by
7 such person. No compensation shall be paid by the department or the State
8 of Nebraska for destruction of any hemp under this section.

9 Sec. 11. (1) Upon a determination by the director that any person
10 in the state has unintentionally violated the Nebraska Hemp Farming Act,
11 a state plan as described in section 16 of this act approved by the
12 United States Department of Agriculture, any rules and regulations
13 adopted and promulgated under the act, a corrective action plan issued
14 pursuant to this section, or an order of the director, the director may:

15 (a) Issue an order specifying the provisions of the act, state plan,
16 rule or regulation, corrective action plan, or order alleged to be
17 violated and the facts alleged to constitute a violation;

18 (b) Issue a cease and desist order to the violator; and

19 (c) Issue an order for a corrective action plan in accordance with
20 this section.

21 (2) Any person who commits a violation under this section shall not
22 be subject to any additional criminal enforcement by state or local
23 government authorities other than authorized under this section.

24 (3) Any person who unintentionally violates the Nebraska Hemp
25 Farming Act, a state plan as described in section 16 of this act approved
26 by the United States Department of Agriculture, any rules and regulations
27 adopted and promulgated under the act, a corrective action plan issued
28 pursuant to this section, or an order of the director three times in a
29 five-year period shall be ineligible to obtain a license to cultivate,
30 handle, process, or broker hemp for a period of five years beginning on
31 the date of the third violation.

1 (4) If the director orders issuance of a corrective action plan,
2 such plan may include:

3 (a) A reasonable date by which the licensee shall correct the
4 unintentional violation;

5 (b) A requirement that the licensee shall periodically report to the
6 department on the compliance of the licensee with the corrective action
7 plan for a period of not less than the next two calendar years;

8 (c) An administrative fine of up to five hundred dollars per day;
9 and

10 (d) Temporary suspension of a license to operate as a cultivator,
11 processor-handler, or broker.

12 (5) Upon violation of a corrective action plan, the director may
13 issue an amended corrective action plan.

14 (6) A person aggrieved by an order of the director may request a
15 hearing pursuant to section 13 of this act.

16 (7) The director shall advise the Attorney General of the failure of
17 any person to pay an administrative fine imposed under this section. The
18 Attorney General shall bring an action in Lancaster County district court
19 to recover the fine.

20 (8) Any administrative fine collected under this section shall be
21 remitted to the State Treasurer for distribution in accordance with
22 Article VII, section 5, of the Constitution of Nebraska.

23 Sec. 12. (1) Upon a determination by the director that any person
24 in the state has intentionally violated the Nebraska Hemp Farming Act, a
25 state plan approved by the United States Department of Agriculture, any
26 rules and regulations adopted and promulgated under the act, or an order
27 of the director, the director shall:

28 (a) Notify the United States Attorney General;

29 (b) Notify the Attorney General; and

30 (c) Notify the county attorney for the county in which the violation
31 occurred.

1 (2) Any person who intentionally violates the Nebraska Hemp Farming
2 Act, a state plan as described in section 16 of this act approved by the
3 United States Department of Agriculture, any rules and regulations
4 adopted and promulgated under the act, a corrective action plan issued
5 pursuant to this section, or an order of the director three times in a
6 five-year period shall be ineligible to obtain a license to cultivate,
7 handle, process, or broker hemp for a period of ten years beginning on
8 the date of the third violation.

9 (3) A person aggrieved by an order of the director may request a
10 hearing pursuant to section 13 of this act.

11 Sec. 13. (1) Any person aggrieved by an order of the director
12 pursuant to the Nebraska Hemp Farming Act for which a hearing was not
13 held may request a hearing by contacting the department in writing within
14 thirty days after the date the order was issued, and a hearing shall
15 thereafter be held. Hearings shall be in accordance with the
16 Administrative Procedure Act. At such hearing the department shall
17 receive any relevant evidence and the burden of the proof shall be upon
18 the person aggrieved by the director's order. After such hearing the
19 department shall render a decision in writing and shall issue such order
20 or orders duly certified as deemed necessary.

21 (2) Appeals of final orders issued after a hearing held pursuant to
22 subsection (1) of this section shall be in accordance with the
23 Administrative Procedure Act. The district court for Lancaster County
24 shall have exclusive jurisdiction for appeals taken under the Nebraska
25 Hemp Farming Act.

26 Sec. 14. (1) Hemp from each cultivation site registered with the
27 department shall be tested for delta-9 tetrahydrocannabinol concentration
28 prior to harvest by an approved testing facility at the licensee's
29 expense. The results of such tests shall be certified directly to the
30 department by the testing facility prior to harvest. The test results
31 shall identify the location ID where the hemp was cultivated.

1 (2) The department may, at its discretion, conduct sampling and
2 testing of any hemp from any licensee at any time.

3 (3) The department may adopt and promulgate rules and regulations
4 governing the sampling and testing of hemp, including, but not limited
5 to, the number of samples required, the procedure for gathering samples,
6 and certification of the test results to the department.

7 (4) Testing of hemp required under this section shall be conducted
8 pursuant to standards adopted by the department using post-
9 decarboxylation or other similarly reliable methods for the testing of
10 delta-9 tetrahydrocannabinol concentration.

11 (5) Testing of hemp shall be conducted by a testing facility
12 approved by the department.

13 (6) The department shall create and maintain a list of approved
14 testing facilities.

15 (7) The entire hemp plant is not required to be submitted for
16 testing.

17 (8) The test sample shall be obtained from flowering tops when
18 flowering is occurring, shall be approximately eight inches in length,
19 and shall consist of the fan leaf, the stalk, the flower, and, if
20 available, the seed head.

21 (9) The requirements of this section shall be sufficient for both
22 dioecious and monoecious cultivars.

23 (10) The approved testing facility shall provide a report giving the
24 results of the potency analysis of each sample. For tests directed by the
25 department, the report shall be provided to the licensee and a copy of
26 the report shall be issued to the department. The report shall be
27 provided before the harvest date, if applicable.

28 (11) When a test result is adverse, the department may require a
29 licensee to have further tests done and may require harvesting and
30 destruction of any plants in any portions of the site containing
31 noncompliant plants.

1 Sec. 15. (1) Any cultivator transporting hemp cultivated under the
2 Nebraska Hemp Farming Act shall carry with the hemp being transported a
3 copy of the cultivator license under which it was cultivated and a copy
4 of the test results pertaining to such hemp.

5 (2) Any processor-handler transporting hemp processed under the
6 Nebraska Hemp Farming Act shall carry with the hemp being transported a
7 copy of the processor-handler license under which the hemp is being
8 transported and a copy of the test results pertaining to such hemp.

9 (3) Any person other than a cultivator or processor-handler who is
10 transporting hemp governed under the Nebraska Hemp Farming Act shall
11 carry with such hemp being transported a bill of lading indicating the
12 owner of the hemp, the point of origin of the hemp, and the destination
13 of the hemp, and a copy of the test results pertaining to such hemp.

14 (4) The department may, at its discretion, conduct inspections of a
15 cultivator's or processor-handler's operation, including all sites
16 registered with the department. At a minimum, the department shall
17 conduct annual inspections of a random sample of cultivators and
18 processor-handlers to verify that hemp is not cultivated, processed, or
19 handled in violation of the Nebraska Hemp Farming Act.

20 Sec. 16. (1) No later than December 31, 2019, the director, in
21 consultation with the Governor and the Attorney General, shall submit to
22 the United States Secretary of Agriculture for approval a state plan by
23 which the department shall regulate the cultivation, handling, and
24 processing of hemp. Such state plan shall include, at a minimum:

25 (a) A practice to maintain relevant information regarding land on
26 which hemp is cultivated, handled, or processed in Nebraska, including a
27 legal description of the land, for a period of not less than three
28 calendar years;

29 (b) A procedure for testing, using post-decarboxylation or other
30 similarly reliable methods, delta-9 tetrahydrocannabinol concentration of
31 hemp cultivated in Nebraska;

1 (c) A procedure for the effective destruction of hemp that is
2 cultivated, processed, or handled in violation of the Nebraska Hemp
3 Farming Act;

4 (d) A procedure to implement enforcement procedures under the act;

5 (e) A procedure for conducting, at a minimum, annual inspections of
6 a random sample of hemp cultivators and processor-handlers to verify that
7 hemp is not being cultivated, processed, or handled in violation of state
8 or federal law;

9 (f) A procedure for submitting required information to the United
10 States Department of Agriculture, as required; and

11 (g) A certification that the state has the resources and personnel
12 needed to carry out the practices and procedures required by the act and
13 federal law.

14 (2) If the United States Secretary of Agriculture disapproves the
15 plan, the director, in consultation with the Governor and the Attorney
16 General, shall submit an amended state plan to the secretary within
17 ninety days after such disapproval.

18 (3) The director shall have the authority to alter or amend the
19 state plan as required, consistent with the Nebraska Hemp Farming Act and
20 federal law.

21 (4) Nothing in the Nebraska Hemp Farming Act shall be construed to
22 be less restrictive than section 10113 of the federal Agriculture
23 Improvement Act of 2018, Public Law 115-334, as such section existed on
24 January 1, 2019.

25 Sec. 17. (1) The Nebraska Hemp Commission is created. The
26 commission shall consist of the following members:

27 (a) The dean of the University of Nebraska College of Agricultural
28 Sciences and Natural Resources or his or her designee;

29 (b) One member representing postsecondary institutions other than
30 the University of Nebraska; and

31 (c) Three members appointed by the Governor representing the

1 following interests:

2 (i) Two Nebraska farmers with an interest in cultivating hemp; and

3 (ii) A manufacturer of hemp products.

4 (2) Members appointed pursuant to subdivisions (1)(b) and (c) of
5 this section shall serve a term of four years and may be reappointed. A
6 majority of the members of the commission shall constitute a quorum. The
7 commission shall annually elect one member from among the remaining
8 members to serve as chairperson. The commission shall meet quarterly and
9 may meet more often upon the call of the chairperson or by request of a
10 majority of the members. The commission shall be appointed and conduct
11 its first meeting no later than September 1, 2019. The members of the
12 commission shall serve without pay but shall receive expenses incurred
13 while on official business as provided in sections 81-1174 to 81-1177.

14 (3) The commission shall have primary responsibility for promoting
15 the Nebraska hemp industry and shall have the following powers and
16 duties:

17 (a) To appoint and fix the salary of such support staff and
18 employees, who shall serve at the pleasure of the commission, as may be
19 required for the proper discharge of the functions of the commission;

20 (b) To prepare and approve a budget;

21 (c) To adopt and promulgate reasonable rules and regulations
22 necessary to carry out this section and section 19 of this act;

23 (d) To contract for services and authorize the expenditure of funds
24 which are necessary for the proper operation of this section and section
25 19 of this act;

26 (e) To keep minutes of its meetings and other books and records
27 which will clearly reflect all of the acts and transactions of the
28 commission and to keep such records open to public examination by any
29 person during normal business hours;

30 (f) To prohibit using any funds collected by the commission to
31 directly or indirectly support or oppose any candidate for public office

1 or to influence state legislation; and

2 (g) To establish an administrative office at such place in the state
3 as may be suitable for the proper discharge of commission functions.

4 (4) The commission shall periodically report to the Governor and to
5 the Legislature on hemp policies and practices that will result in the
6 proper and legal growth, management, marketing, and use of the state's
7 hemp industry. Any report submitted to the Legislature shall be submitted
8 electronically. Such policies and practices shall, at a minimum, address
9 the following:

10 (a) Federal laws and regulatory constraints;

11 (b) The economic and financial feasibility of a hemp market in
12 Nebraska;

13 (c) Nebraska businesses that may potentially utilize hemp;

14 (d) Examination of research on hemp production and utilization;

15 (e) The potential for globally marketing Nebraska hemp;

16 (f) The feasibility of private funding for a Nebraska hemp research
17 program;

18 (g) Law enforcement concerns;

19 (h) Statutory and regulatory schemes for the cultivation of hemp by
20 private producers; and

21 (i) Technical support and education about hemp.

22 (5) The commission is authorized to develop and coordinate programs
23 to research and promote hemp, including, but not limited to, cultivating,
24 handling, processing, transporting, marketing, and selling hemp.

25 (6) The commission shall establish such programs with the goal of
26 securing at least twenty percent participation by small and emerging
27 businesses in the Nebraska hemp industry, including, but not limited to,
28 cultivating, handling, processing, transporting, marketing, and selling
29 hemp.

30 Sec. 18. The Hemp Promotion Fund is established. The fund shall be
31 administered by the commission for the purposes set forth in section 17

1 of this act. The fund may receive appropriations by the Legislature and
2 gifts, grants, federal funds, and any other funds both public and
3 private. All fees collected as set forth in section 19 of this act shall
4 be remitted to the State Treasurer for credit to the fund. Any money in
5 the fund available for investment shall be invested by the state
6 investment officer pursuant to the Nebraska Capital Expansion Act and the
7 Nebraska State Funds Investment Act.

8 Sec. 19. (1) For purposes of this section:

9 (a) Commercial channels means the sale or delivery of hemp for any
10 use to any commercial buyer, dealer, processor, or cooperative or to any
11 person, public or private, who resells any hemp or hemp product;

12 (b) Delivered or delivery means receiving hemp for utilization or as
13 a result of its sale in the State of Nebraska but excludes receiving hemp
14 for storage; and

15 (c) First purchaser means any person, public or private corporation,
16 association, partnership, limited liability company, or other entity
17 buying, accepting for shipment, or otherwise acquiring hemp from a
18 cultivator.

19 (2) A fee of one cent per pound is levied upon all hemp seed and a
20 fee of one dollar per ton is levied upon all hemp fiber sold through
21 commercial channels in Nebraska or delivered in Nebraska. Two-thirds of
22 the fee levied under this section shall be paid by the cultivator at the
23 time of sale or delivery and shall be collected by the first purchaser.
24 The first purchaser shall pay the remaining one-third of the fee. Hemp
25 seed and hemp fiber shall not be subject to the fees imposed by this
26 section more than once.

27 (3) The first purchaser, at the time of settlement with the
28 cultivator, shall deduct the fees imposed by this section. The fees shall
29 be deducted whether the hemp is stored in this state or any other state.
30 The first purchaser shall maintain the necessary records of the fees for
31 each purchase or delivery of hemp on the settlement form or check stub

1 showing payment to the cultivator for each purchase or delivery. Such
2 records maintained by the first purchaser shall be open for inspection
3 during normal business hours and provide the following information:

4 (a) The name and address of the cultivator and first purchaser;

5 (b) The date of the purchase or delivery;

6 (c) The number of pounds of hemp seed or pounds or tons of hemp
7 fiber purchased; and

8 (d) The amount of fees collected on each purchase or delivery.

9 (4) The first purchaser shall render and have on file with the
10 department by the last day of January and July of each year, on forms
11 prescribed by the commission, a statement of the number of pounds of hemp
12 seed or pounds or tons of hemp fiber purchased in Nebraska. At the time
13 the statement is filed, such first purchaser shall pay and remit to the
14 commission the fees imposed by this section.

15 (5) All fees collected by the commission pursuant to this section
16 shall be remitted to the State Treasurer for credit to the Hemp Promotion
17 Fund. The commission shall remit the fees collected to the State
18 Treasurer within ten days after receipt.

19 (6) Any person intentionally violating this section shall be guilty
20 of a Class III misdemeanor.

21 Sec. 20. Section 2-5701, Revised Statutes Cumulative Supplement,
22 2018, is amended to read:

23 2-5701 (1) A postsecondary institution in this state or the
24 Department of Agriculture may ~~grow or~~ cultivate industrial hemp if the
25 industrial hemp is ~~grown or~~ cultivated for purposes of research conducted
26 under an agricultural pilot program or other agricultural or academic
27 research.

28 (2) Sites used for ~~growing or~~ cultivating industrial hemp must be
29 certified by, and registered with, the Department of Agriculture.

30 (3)(a) Prior to approval by the United States Secretary of
31 Agriculture of the state plan as provided in section 16 of this act, a

1 person with a valid licensing agreement with the department pursuant to
2 this section may cultivate, handle, or process industrial hemp as a part
3 of the department's agricultural pilot program. Qualified applicants
4 shall be selected at random by the department. To be qualified to apply
5 and to retain a valid licensing agreement, a cultivator or processor-
6 handler shall comply with all applicable requirements set forth in the
7 Nebraska Hemp Farming Act, except that a licensing agreement shall be
8 required in lieu of any license requirements under the act. (3)

9 (b) A cultivator or processor-handler shall pay the license
10 application fee, site registration fee, and site modification fee, if
11 applicable, established in section 8 of this act for each one-year
12 licensing agreement and shall be required to submit a report for
13 department research purposes. The report shall be submitted as required
14 by the department. All fees collected by the department under this
15 section shall be remitted to the State Treasurer for credit to the
16 Nebraska Hemp Program Fund.

17 (c) Licensing agreements shall establish procedures for sampling and
18 testing of industrial hemp, effective destruction of noncompliant
19 industrial hemp, and department inspections to monitor compliance with
20 the agreements.

21 (d) A cultivator or processor-handler who has had a licensing
22 agreement terminated for failure to comply with the agreement or the
23 Nebraska Hemp Farming Act, or any rules or regulations adopted and
24 promulgated under the act, may request a hearing as set forth in section
25 13 of this act.

26 (e) The Department of Agriculture may shall adopt and promulgate
27 rules and regulations with respect to the growth or cultivation of
28 industrial hemp and the certification and registration of sites growing
29 or cultivating industrial hemp as necessary to carry out authorized under
30 this section.

31 (4) For purposes of this section:

1 (a) Agricultural pilot program means a pilot program to study the
2 ~~growth, cultivation, or marketing of industrial hemp;~~

3 (b) Cultivate and cultivator have the same meaning as in section 3
4 of this act;

5 (c) Handle has the same meaning as in section 3 of this act;

6 (d) ~~(b)~~ Industrial hemp means hemp as defined in section 3 of this
7 act the plant Cannabis sativa L. and any part of such plant, whether
8 growing or not, with a delta-9 tetrahydrocannabinol concentration of not
9 more than three-tenths percent on a dry weight basis; and

10 (e) ~~(c)~~ Postsecondary institution has the same meaning as in section
11 3 of this act; and means a postsecondary institution as defined in
12 section 85-2403 that also meets the requirements of 20 U.S.C. 1001, as
13 such section existed on January 1, 2014.

14 (f) Process and processor-handler have the same meaning as in
15 section 3 of this act.

16 Sec. 21. Section 28-401, Revised Statutes Cumulative Supplement,
17 2018, is amended to read:

18 28-401 As used in the Uniform Controlled Substances Act, unless the
19 context otherwise requires:

20 (1) Administer means to directly apply a controlled substance by
21 injection, inhalation, ingestion, or any other means to the body of a
22 patient or research subject;

23 (2) Agent means an authorized person who acts on behalf of or at the
24 direction of another person but does not include a common or contract
25 carrier, public warehouse keeper, or employee of a carrier or warehouse
26 keeper;

27 (3) Administration means the Drug Enforcement Administration of the
28 United States Department of Justice;

29 (4) Controlled substance means a drug, biological, substance, or
30 immediate precursor in Schedules I through V of section 28-405.
31 Controlled substance does not include distilled spirits, wine, malt

1 beverages, tobacco, hemp, or any nonnarcotic substance if such substance
2 may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et
3 seq., as such act existed on January 1, 2014, and the law of this state,
4 be lawfully sold over the counter without a prescription;

5 (5) Counterfeit substance means a controlled substance which, or the
6 container or labeling of which, without authorization, bears the
7 trademark, trade name, or other identifying mark, imprint, number, or
8 device, or any likeness thereof, of a manufacturer, distributor, or
9 dispenser other than the person or persons who in fact manufactured,
10 distributed, or dispensed such substance and which thereby falsely
11 purports or is represented to be the product of, or to have been
12 distributed by, such other manufacturer, distributor, or dispenser;

13 (6) Department means the Department of Health and Human Services;

14 (7) Division of Drug Control means the personnel of the Nebraska
15 State Patrol who are assigned to enforce the Uniform Controlled
16 Substances Act;

17 (8) Dispense means to deliver a controlled substance to an ultimate
18 user or a research subject pursuant to a medical order issued by a
19 practitioner authorized to prescribe, including the packaging, labeling,
20 or compounding necessary to prepare the controlled substance for such
21 delivery;

22 (9) Distribute means to deliver other than by administering or
23 dispensing a controlled substance;

24 (10) Prescribe means to issue a medical order;

25 (11) Drug means (a) articles recognized in the official United
26 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United
27 States, official National Formulary, or any supplement to any of them,
28 (b) substances intended for use in the diagnosis, cure, mitigation,
29 treatment, or prevention of disease in human beings or animals, and (c)
30 substances intended for use as a component of any article specified in
31 subdivision (a) or (b) of this subdivision, but does not include devices

1 or their components, parts, or accessories;

2 (12) Deliver or delivery means the actual, constructive, or
3 attempted transfer from one person to another of a controlled substance,
4 whether or not there is an agency relationship;

5 (13) Hemp has the same meaning as in section 3 of this act;

6 (14)(a) ~~(13)~~ Marijuana means all parts of the plant of the genus
7 cannabis, whether growing or not, the seeds thereof, and every compound,
8 manufacture, salt, derivative, mixture, or preparation of such plant or
9 its seeds.

10 (b) Marijuana , ~~but~~ does not include the mature stalks of such
11 plant, hashish, tetrahydrocannabinols extracted or isolated from the
12 plant, fiber produced from such stalks, oil or cake made from the seeds
13 of such plant, any other compound, manufacture, salt, derivative,
14 mixture, or preparation of such mature stalks, the sterilized seed of
15 such plant which is incapable of germination, or cannabidiol contained in
16 a drug product approved by the federal Food and Drug Administration or
17 obtained pursuant to sections 28-463 to 28-468.

18 (c) Marijuana does not include hemp.

19 (d) When the weight of marijuana is referred to in the Uniform
20 Controlled Substances Act, it means its weight at or about the time it is
21 seized or otherwise comes into the possession of law enforcement
22 authorities, whether cured or uncured at that time.

23 (e) When industrial hemp as defined in section 2-5701 is in the
24 possession of a person as authorized under section 2-5701, it is not
25 considered marijuana for purposes of the Uniform Controlled Substances
26 Act;

27 (15) ~~(14)~~ Manufacture means the production, preparation,
28 propagation, conversion, or processing of a controlled substance, either
29 directly or indirectly, by extraction from substances of natural origin,
30 independently by means of chemical synthesis, or by a combination of
31 extraction and chemical synthesis, and includes any packaging or

1 repackaging of the substance or labeling or relabeling of its container.
2 Manufacture does not include the preparation or compounding of a
3 controlled substance by an individual for his or her own use, except for
4 the preparation or compounding of components or ingredients used for or
5 intended to be used for the manufacture of methamphetamine, or the
6 preparation, compounding, conversion, packaging, or labeling of a
7 controlled substance: (a) By a practitioner as an incident to his or her
8 prescribing, administering, or dispensing of a controlled substance in
9 the course of his or her professional practice; or (b) by a practitioner,
10 or by his or her authorized agent under his or her supervision, for the
11 purpose of, or as an incident to, research, teaching, or chemical
12 analysis and not for sale;

13 (16) ~~(15)~~ Narcotic drug means any of the following, whether produced
14 directly or indirectly by extraction from substances of vegetable origin,
15 independently by means of chemical synthesis, or by a combination of
16 extraction and chemical synthesis: (a) Opium, opium poppy and poppy
17 straw, coca leaves, and opiates; (b) a compound, manufacture, salt,
18 derivative, or preparation of opium, coca leaves, or opiates; or (c) a
19 substance and any compound, manufacture, salt, derivative, or preparation
20 thereof which is chemically equivalent to or identical with any of the
21 substances referred to in subdivisions (a) and (b) of this subdivision,
22 except that the words narcotic drug as used in the Uniform Controlled
23 Substances Act does not include decocainized coca leaves or extracts of
24 coca leaves, which extracts do not contain cocaine or ecgonine, or
25 isoquinoline alkaloids of opium;

26 (17) ~~(16)~~ Opiate means any substance having an addiction-forming or
27 addiction-sustaining liability similar to morphine or being capable of
28 conversion into a drug having such addiction-forming or addiction-
29 sustaining liability. Opiate does not include the dextrorotatory isomer
30 of 3-methoxy-n methylmorphinan and its salts. Opiate includes its racemic
31 and levorotatory forms;

1 ~~(18)~~ ~~(17)~~ Opium poppy means the plant of the species Papaver
2 somniferum L., except the seeds thereof;

3 ~~(19)~~ ~~(18)~~ Poppy straw means all parts, except the seeds, of the
4 opium poppy after mowing;

5 ~~(20)~~ ~~(19)~~ Person means any corporation, association, partnership,
6 limited liability company, or one or more persons;

7 ~~(21)~~ ~~(20)~~ Practitioner means a physician, a physician assistant, a
8 dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a
9 certified nurse midwife, a certified registered nurse anesthetist, a
10 nurse practitioner, a scientific investigator, a pharmacy, a hospital, or
11 any other person licensed, registered, or otherwise permitted to
12 distribute, dispense, prescribe, conduct research with respect to, or
13 administer a controlled substance in the course of practice or research
14 in this state, including an emergency medical service as defined in
15 section 38-1207;

16 ~~(22)~~ ~~(21)~~ Production includes the manufacture, planting,
17 cultivation, or harvesting of a controlled substance;

18 ~~(23)~~ ~~(22)~~ Immediate precursor means a substance which is the
19 principal compound commonly used or produced primarily for use and which
20 is an immediate chemical intermediary used or likely to be used in the
21 manufacture of a controlled substance, the control of which is necessary
22 to prevent, curtail, or limit such manufacture;

23 ~~(24)~~ ~~(23)~~ State means the State of Nebraska;

24 ~~(25)~~ ~~(24)~~ Ultimate user means a person who lawfully possesses a
25 controlled substance for his or her own use, for the use of a member of
26 his or her household, or for administration to an animal owned by him or
27 her or by a member of his or her household;

28 ~~(26)~~ ~~(25)~~ Hospital has the same meaning as in section 71-419;

29 ~~(27)~~ ~~(26)~~ Cooperating individual means any person, other than a
30 commissioned law enforcement officer, who acts on behalf of, at the
31 request of, or as agent for a law enforcement agency for the purpose of

1 gathering or obtaining evidence of offenses punishable under the Uniform
2 Controlled Substances Act;

3 ~~(28)(a)~~ ~~(27)~~ Hashish or concentrated cannabis means (i) ~~(a)~~ the
4 separated resin, whether crude or purified, obtained from a plant of the
5 genus cannabis or (ii) ~~(b)~~ any material, preparation, mixture, compound,
6 or other substance which contains ten percent or more by weight of
7 tetrahydrocannabinols.

8 (b) When resins extracted from (i) industrial hemp as defined in
9 section 2-5701 are in the possession of a person as authorized under
10 section 2-5701 or (ii) hemp as defined in section 3 of this act are in
11 the possession of a person as authorized under the Nebraska Hemp Farming
12 Act, they are not considered hashish or concentrated cannabis for
13 purposes of the Uniform Controlled Substances Act;

14 (29) ~~(28)~~ Exceptionally hazardous drug means (a) a narcotic drug,
15 (b) thiophene analog of phencyclidine, (c) phencyclidine, (d)
16 amobarbital, (e) secobarbital, (f) pentobarbital, (g) amphetamine, or (h)
17 methamphetamine;

18 (30) ~~(29)~~ Imitation controlled substance means a substance which is
19 not a controlled substance or controlled substance analogue but which, by
20 way of express or implied representations and consideration of other
21 relevant factors including those specified in section 28-445, would lead
22 a reasonable person to believe the substance is a controlled substance or
23 controlled substance analogue. A placebo or registered investigational
24 drug manufactured, distributed, possessed, or delivered in the ordinary
25 course of practice or research by a health care professional shall not be
26 deemed to be an imitation controlled substance;

27 (31)(a) ~~(30)(a)~~ Controlled substance analogue means a substance (i)
28 the chemical structure of which is substantially similar to the chemical
29 structure of a Schedule I or Schedule II controlled substance as provided
30 in section 28-405 or (ii) which has a stimulant, depressant, analgesic,
31 or hallucinogenic effect on the central nervous system that is

1 substantially similar to or greater than the stimulant, depressant,
2 analgesic, or hallucinogenic effect on the central nervous system of a
3 Schedule I or Schedule II controlled substance as provided in section
4 28-405. A controlled substance analogue shall, to the extent intended for
5 human consumption, be treated as a controlled substance under Schedule I
6 of section 28-405 for purposes of the Uniform Controlled Substances Act;
7 and

8 (b) Controlled substance analogue does not include (i) a controlled
9 substance, (ii) any substance generally recognized as safe and effective
10 within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
11 301 et seq., as such act existed on January 1, 2014, (iii) any substance
12 for which there is an approved new drug application, or (iv) with respect
13 to a particular person, any substance if an exemption is in effect for
14 investigational use for that person, under section 505 of the Federal
15 Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on
16 January 1, 2014, to the extent conduct with respect to such substance is
17 pursuant to such exemption;

18 ~~(32)~~ ~~(31)~~ Anabolic steroid means any drug or hormonal substance,
19 chemically and pharmacologically related to testosterone (other than
20 estrogens, progestins, and corticosteroids), that promotes muscle growth
21 and includes any controlled substance in Schedule III(d) of section
22 28-405. Anabolic steroid does not include any anabolic steroid which is
23 expressly intended for administration through implants to cattle or other
24 nonhuman species and has been approved by the Secretary of Health and
25 Human Services for such administration, but if any person prescribes,
26 dispenses, or distributes such a steroid for human use, such person shall
27 be considered to have prescribed, dispensed, or distributed an anabolic
28 steroid within the meaning of this subdivision;

29 ~~(33)~~ ~~(32)~~ Chart order means an order for a controlled substance
30 issued by a practitioner for a patient who is in the hospital where the
31 chart is stored or for a patient receiving detoxification treatment or

1 maintenance treatment pursuant to section 28-412. Chart order does not
2 include a prescription;

3 (34) ~~(33)~~ Medical order means a prescription, a chart order, or an
4 order for pharmaceutical care issued by a practitioner;

5 (35) ~~(34)~~ Prescription means an order for a controlled substance
6 issued by a practitioner. Prescription does not include a chart order;

7 (36) ~~(35)~~ Registrant means any person who has a controlled
8 substances registration issued by the state or the Drug Enforcement
9 Administration of the United States Department of Justice;

10 (37) ~~(36)~~ Reverse distributor means a person whose primary function
11 is to act as an agent for a pharmacy, wholesaler, manufacturer, or other
12 entity by receiving, inventorying, and managing the disposition of
13 outdated, expired, or otherwise nonsaleable controlled substances;

14 (38) ~~(37)~~ Signature means the name, word, or mark of a person
15 written in his or her own hand with the intent to authenticate a writing
16 or other form of communication or a digital signature which complies with
17 section 86-611 or an electronic signature;

18 (39) ~~(38)~~ Facsimile means a copy generated by a system that encodes
19 a document or photograph into electrical signals, transmits those signals
20 over telecommunications lines, and reconstructs the signals to create an
21 exact duplicate of the original document at the receiving end;

22 (40) ~~(39)~~ Electronic signature has the definition found in section
23 86-621;

24 (41) ~~(40)~~ Electronic transmission means transmission of information
25 in electronic form. Electronic transmission includes computer-to-computer
26 transmission or computer-to-facsimile transmission;

27 (42) ~~(41)~~ Long-term care facility means an intermediate care
28 facility, an intermediate care facility for persons with developmental
29 disabilities, a long-term care hospital, a mental health substance use
30 treatment center, a nursing facility, or a skilled nursing facility, as
31 such terms are defined in the Health Care Facility Licensure Act;

1 ~~(43)~~ ~~(42)~~ Compounding has the same meaning as in section 38-2811;

2 ~~(44)~~ ~~(43)~~ Cannabinoid receptor agonist shall mean any chemical
3 compound or substance that, according to scientific or medical research,
4 study, testing, or analysis, demonstrates the presence of binding
5 activity at one or more of the CB1 or CB2 cell membrane receptors located
6 within the human body; and

7 ~~(45)~~ ~~(44)~~ Lookalike substance means a product or substance, not
8 specifically designated as a controlled substance in section 28-405, that
9 is either portrayed in such a manner by a person to lead another person
10 to reasonably believe that it produces effects on the human body that
11 replicate, mimic, or are intended to simulate the effects produced by a
12 controlled substance or that possesses one or more of the following
13 indicia or characteristics:

14 (a) The packaging or labeling of the product or substance suggests
15 that the user will achieve euphoria, hallucination, mood enhancement,
16 stimulation, or another effect on the human body that replicates or
17 mimics those produced by a controlled substance;

18 (b) The name or packaging of the product or substance uses images or
19 labels suggesting that it is a controlled substance or produces effects
20 on the human body that replicate or mimic those produced by a controlled
21 substance;

22 (c) The product or substance is marketed or advertised for a
23 particular use or purpose and the cost of the product or substance is
24 disproportionately higher than other products or substances marketed or
25 advertised for the same or similar use or purpose;

26 (d) The packaging or label on the product or substance contains
27 words or markings that state or suggest that the product or substance is
28 in compliance with state and federal laws regulating controlled
29 substances;

30 (e) The owner or person in control of the product or substance uses
31 evasive tactics or actions to avoid detection or inspection of the

1 product or substance by law enforcement authorities;

2 (f) The owner or person in control of the product or substance makes
3 a verbal or written statement suggesting or implying that the product or
4 substance is a synthetic drug or that consumption of the product or
5 substance will replicate or mimic effects on the human body to those
6 effects commonly produced through use or consumption of a controlled
7 substance;

8 (g) The owner or person in control of the product or substance makes
9 a verbal or written statement to a prospective customer, buyer, or
10 recipient of the product or substance implying that the product or
11 substance may be resold for profit; or

12 (h) The product or substance contains a chemical or chemical
13 compound that does not have a legitimate relationship to the use or
14 purpose claimed by the seller, distributor, packer, or manufacturer of
15 the product or substance or indicated by the product name, appearing on
16 the product's packaging or label or depicted in advertisement of the
17 product or substance.

18 Sec. 22. If any section in this act or any part of any section is
19 declared invalid or unconstitutional, the declaration shall not affect
20 the validity or constitutionality of the remaining portions.

21 Sec. 23. Original sections 2-5701 and 28-401, Revised Statutes
22 Cumulative Supplement, 2018, are repealed.

23 Sec. 24. Since an emergency exists, this act takes effect when
24 passed and approved according to law.