

AMENDMENTS TO LB657

Introduced by Wayne, 13.

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

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

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

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

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

13          (3) Establish testing and compliance procedures;

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

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

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

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

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

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

27          (3) Commission means the Nebraska Hemp Commission;

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

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

4           (6) Department means the Department of Agriculture;

5           (7) Director means the Director of Agriculture or his or her  
6 designee;

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

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

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

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

30           (12) Licensee means an individual or a business entity possessing a  
31 license issued by the department under the Nebraska Hemp Farming Act to

1 cultivate, handle, process, or broker hemp;

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

5 (14) Nebraska heirloom cannabis plant or seed means a hemp plant or  
6 seed from the plant Cannabis sativa L. that possesses characteristics of  
7 a unique and specialized cannabis seed variety that is present in  
8 Nebraska or has been recognized as produced in Nebraska;

9 (15) Person means an individual, partnership, corporation, limited  
10 liability company, association, postsecondary institution, or other legal  
11 entity;

12 (16) Postsecondary institution means a postsecondary institution as  
13 defined in section 85-2403 that also meets the requirements of 20 U.S.C.  
14 1001, as such section existed on January 1, 2019;

15 (17) Process or processing means converting hemp into a marketable  
16 form;

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

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

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

22 (21) THC means tetrahydrocannabinol.

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

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

28 (b) To possess, transport, sell, and purchase lawfully produced hemp  
29 products.

30 (2) The department shall establish, operate, and administer a  
31 program to license and regulate cultivators, processor-handlers, and

1 brokers that meets the requirements of section 10113 of the federal  
2 Agricultural Improvement Act of 2018, Public Law 115-334, as such section  
3 existed on January 1, 2019, and the Nebraska Hemp Farming Act. Nebraska  
4 heirloom cannabis plant or seed not being cultivated for commercial  
5 purposes is not subject to the Nebraska Hemp Farming Act.

6 (3) The department may adopt and promulgate rules and regulations to  
7 implement the Nebraska Hemp Farming Act and administer programs,  
8 including, but not limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25           (4) Before a person may be licensed to cultivate hemp, such person  
26 shall submit with the application a site registration fee as set by the  
27 department pursuant to section 8 of this act. The site registration fee  
28 shall be paid for each separate site where the applicant will cultivate  
29 hemp. Subsequent modifications to the sites listed in the application  
30 shall be submitted on forms prescribed by the department along with a  
31 site modification fee and shall only take effect upon written approval of

1 the department. The applicant must certify that all sites where hemp is  
2 to be cultivated are under the control of the applicant and that the  
3 department shall have unlimited access to all such sites.

4 (5) After the department receives approval by the United States  
5 Secretary of Agriculture for the state plan described in section 16 of  
6 this act, an initial cultivator license application may be submitted at  
7 any time, except that the department may set a cut-off date for  
8 applications ahead of the growing season. An initial cultivator license  
9 issued by the department expires on December 31 in the calendar year for  
10 which it was issued.

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

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

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

30 Sec. 6. (1) Except for approved testing facilities, a person shall  
31 not process, handle, or broker hemp in this state unless the person meets

1 the requirements of section 2-5701 or is in compliance with this section  
2 and licensed as a processor-handler or broker under the Nebraska Hemp  
3 Farming Act.

4 (2) Before a person other than an approved testing facility may be  
5 licensed to process, handle, or broker hemp in this state, such person  
6 shall submit an application on a form prescribed by the department that  
7 includes, but is not limited to, the following:

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

10 (b) If the applicant is an entity and not an individual, the name of  
11 the applicant, mailing address, telephone number, and valid email  
12 address, the full name of each officer and director, partner, member, or  
13 owner owning in excess of ten percent of equity or stock in such entity,  
14 and the birthdate, title, mailing address, telephone number, and valid  
15 email address of each such person;

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

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

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

27 (4) Before a person other than an approved testing facility may be  
28 licensed to process or handle hemp, such person shall submit with the  
29 application a nonrefundable site registration fee as set by the  
30 department pursuant to section 8 of this act. The site registration fee  
31 shall be paid for each separate site where hemp is processed or handled.

1 Subsequent modifications to the sites listed in the application shall be  
2 submitted on forms prescribed by the department along with the site  
3 modification fee and shall only take effect upon written approval of the  
4 department. The applicant must certify that all sites where hemp is to be  
5 processed or handled are under the control of the applicant and that the  
6 department shall have unlimited access to all such sites.

7 (5) After the department receives approval by the United States  
8 Secretary of Agriculture for the state plan submitted pursuant to section  
9 16 of this act, an initial processor-handler or broker license  
10 application may be submitted at any time. An initial processor-handler or  
11 broker license issued by the department expires on December 31 in the  
12 calendar year for which it was issued.

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

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

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

27 (9) An application and supporting documents submitted to the  
28 department under this section are not public records subject to  
29 disclosure pursuant to sections 84-712 to 84-712.09. Such information may  
30 be submitted to the United States Department of Agriculture pursuant to  
31 the requirements of section 10113 of the federal Agricultural Improvement



1 Act of 2018, Public Law 115-334, as such section existed on January 1,  
2 2019, or any other federal statute, rule, or regulation, and may be  
3 submitted to law enforcement.

4 Sec. 7. (1) The department may adopt and promulgate rules and  
5 regulations governing the approval and denial of cultivator, processor-  
6 handler, and broker license applications. Such applications shall be  
7 denied if they are incomplete or deficient, or if the applicant does not  
8 meet minimum qualifications, including, but not limited to:

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

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

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

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

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

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

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

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

1           Sec. 8. (1) License fees under the Nebraska Hemp Farming Act are  
2 due on or before December 31 and shall be in the amount listed in column  
3 A of subsection (2) of this section. The fees due on or before December  
4 31, 2019, and by each December 31 thereafter shall be set by the director  
5 on or before July 1 of each year. The director may raise or lower such  
6 fees each year to meet the criteria in this subsection, but the fee shall  
7 not be greater than the amount in column B of subsection (2) of this  
8 section. The same percentage shall be applied to each category for all  
9 fee increases or decreases. The director shall use the fees in column A  
10 of subsection (2) of this section as a base for future fee increases or  
11 decreases. The director shall determine the fees based on estimated  
12 annual revenue and fiscal year-end cash fund balances as follows:

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

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

19           (2) Fees.

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

27           (3) Any fee remaining unpaid for more than one month shall be  
28 considered delinquent and the person owing the fee shall pay an  
29 additional administrative fee of twenty-five percent of the delinquent  
30 amount for each month it remains unpaid, not to exceed one hundred

1 percent of the original amount due. The department may waive the  
2 additional administrative fee based upon the existence and extent of any  
3 mitigating circumstances that have resulted in the late payment of such  
4 fee. The purpose of the additional administrative fee is to cover the  
5 administrative costs associated with collecting fees, and all money  
6 collected as an additional administrative fee shall be remitted to the  
7 State Treasurer for credit to the Nebraska Hemp Program Fund.

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

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

20       (a) A background check for any felony controlled substance charge in  
21 the ten years prior to the time of application completed by the  
22 department or a law enforcement agency at the direction of the  
23 department, at any time, for all of the individuals listed on the  
24 cultivator's, processor-handler's, or broker's application at the  
25 applicant's expense, which shall be in addition to the application and  
26 registration fees;

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

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

31       (d) Destruction of any of the following:

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

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

6       (iii) Hemp that is cultivated, processed, handled, or brokered in a  
7       manner that violates the Nebraska Hemp Farming Act or the rules and  
8       regulations adopted and promulgated thereunder; and

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

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

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

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

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

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

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

31       (3) Any person who unintentionally violates the Nebraska Hemp

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

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

10 (a) A reasonable date by which the licensee shall correct the  
11 unintentional violation;

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

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

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

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

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

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

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

30 Sec. 12. (1) Upon a determination by the director that any person  
31 in the state has intentionally violated the Nebraska Hemp Farming Act, a

1 state plan approved by the United States Department of Agriculture, any  
2 rules and regulations adopted and promulgated under the act, or an order  
3 of the director, the director shall:

4 (a) Notify the United States Attorney General;

5 (b) Notify the Attorney General; and

6 (c) Notify the county attorney for the county in which the violation  
7 occurred.

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

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

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

28 (2) Appeals of final orders issued after a hearing held pursuant to  
29 subsection (1) of this section shall be in accordance with the  
30 Administrative Procedure Act. The district court for Lancaster County  
31 shall have exclusive jurisdiction for appeals taken under the Nebraska

1 Hemp Farming Act.

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

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

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

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

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

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

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

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

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

30 (10) The approved testing facility shall provide a report giving the  
31 results of the potency analysis of each sample. For tests directed by the

1 department, the report shall be provided to the licensee and a copy of  
2 the report shall be issued to the department. The report shall be  
3 provided before the harvest date, if applicable.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

7           (c) Three members appointed by the Governor representing the  
8 following interests:

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

10           (ii) A manufacturer of hemp products.

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

21           (3) The commission shall have primary responsibility for promoting  
22 the Nebraska hemp industry and shall have the following powers and  
23 duties:

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

27           (b) To prepare and approve a budget;

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

30           (d) To contract for services and authorize the expenditure of funds  
31 which are necessary for the proper operation of this section and section

1 19 of this act;

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

6 (f) To prohibit using any funds collected by the commission to  
7 directly or indirectly support or oppose any candidate for public office  
8 or to influence state legislation; and

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

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

17 (a) Federal laws and regulatory constraints;

18 (b) The economic and financial feasibility of a hemp market in  
19 Nebraska;

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

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

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

23 (f) The feasibility of private funding for a Nebraska hemp research  
24 program;

25 (g) Law enforcement concerns;

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

28 (i) Technical support and education about hemp.

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

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

6           Sec. 18. The Hemp Promotion Fund is established. The fund shall be  
7 administered by the commission for the purposes set forth in section 17  
8 of this act. The fund may receive appropriations by the Legislature and  
9 gifts, grants, federal funds, and any other funds both public and  
10 private. All fees collected as set forth in section 19 of this act shall  
11 be remitted to the State Treasurer for credit to the fund. Any money in  
12 the fund available for investment shall be invested by the state  
13 investment officer pursuant to the Nebraska Capital Expansion Act and the  
14 Nebraska State Funds Investment Act.

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

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

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

22           (c) First purchaser means any person, public or private corporation,  
23 association, partnership, limited liability company, or other entity  
24 buying, accepting for shipment, or otherwise acquiring hemp from a  
25 cultivator.

26           (2) A fee of one cent per pound is levied upon all hemp seed and a  
27 fee of one dollar per ton is levied upon all hemp fiber sold through  
28 commercial channels in Nebraska or delivered in Nebraska. Two-thirds of  
29 the fee levied under this section shall be paid by the cultivator at the  
30 time of sale or delivery and shall be collected by the first purchaser.  
31 The first purchaser shall pay the remaining one-third of the fee. Hemp

1 seed and hemp fiber shall not be subject to the fees imposed by this  
2 section more than once.

3 (3) The first purchaser, at the time of settlement with the  
4 cultivator, shall deduct the fees imposed by this section. The fees shall  
5 be deducted whether the hemp is stored in this state or any other state.  
6 The first purchaser shall maintain the necessary records of the fees for  
7 each purchase or delivery of hemp on the settlement form or check stub  
8 showing payment to the cultivator for each purchase or delivery. Such  
9 records maintained by the first purchaser shall be open for inspection  
10 during normal business hours and provide the following information:

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

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

13 (c) The number of pounds of hemp seed or pounds or tons of hemp  
14 fiber purchased; and

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

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

22 (5) All fees collected by the commission pursuant to this section  
23 shall be remitted to the State Treasurer for credit to the Hemp Promotion  
24 Fund. The commission shall remit the fees collected to the State  
25 Treasurer within ten days after receipt.

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

28 Sec. 20. Section 2-5701, Revised Statutes Cumulative Supplement,  
29 2018, is amended to read:

30 2-5701 (1) A postsecondary institution in this state or the  
31 Department of Agriculture may ~~grow or~~ cultivate industrial hemp if the

1 industrial hemp is ~~grown or~~ cultivated for purposes of research conducted  
2 under an agricultural pilot program or other agricultural or academic  
3 research.

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

6 (3)(a) Prior to approval by the United States Secretary of  
7 Agriculture of the state plan as provided in section 16 of this act, a  
8 person with a valid licensing agreement with the department pursuant to  
9 this section may cultivate, handle, or process industrial hemp as a part  
10 of the department's agricultural pilot program. Qualified applicants  
11 shall be selected at random by the department. To be qualified to apply  
12 and to retain a valid licensing agreement, a cultivator or processor-  
13 handler shall comply with all applicable requirements set forth in the  
14 Nebraska Hemp Farming Act, except that a licensing agreement shall be  
15 required in lieu of any license requirements under the act. (3)

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

24 (c) Licensing agreements shall establish procedures for sampling and  
25 testing of industrial hemp, effective destruction of noncompliant  
26 industrial hemp, and department inspections to monitor compliance with  
27 the agreements.

28 (d) A cultivator or processor-handler who has had a licensing  
29 agreement terminated for failure to comply with the agreement or the  
30 Nebraska Hemp Farming Act, or any rules or regulations adopted and  
31 promulgated under the act, may request a hearing as set forth in section

1 13 of this act.

2 ~~(e) The Department of Agriculture may shall~~ adopt and promulgate  
3 rules and regulations ~~with respect to the growth or cultivation of~~  
4 ~~industrial hemp and the certification and registration of sites growing~~  
5 ~~or cultivating industrial hemp~~ as necessary to carry out authorized under  
6 this section.

7 (4) For purposes of this section:

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

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

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

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

17 ~~(e) (c) Postsecondary institution~~ has the same meaning as in section  
18 3 of this act; and means a postsecondary institution as defined in  
19 ~~section 85-2403 that also meets the requirements of 20 U.S.C. 1001, as~~  
20 ~~such section existed on January 1, 2014.~~

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

23 Sec. 21. Section 28-401, Revised Statutes Cumulative Supplement,  
24 2018, is amended to read:

25 28-401 As used in the Uniform Controlled Substances Act, unless the  
26 context otherwise requires:

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

30 (2) Agent means an authorized person who acts on behalf of or at the  
31 direction of another person but does not include a common or contract

1 carrier, public warehouse keeper, or employee of a carrier or warehouse  
2 keeper;

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

5 (4) Controlled substance means a drug, biological, substance, or  
6 immediate precursor in Schedules I through V of section 28-405.  
7 Controlled substance does not include distilled spirits, wine, malt  
8 beverages, tobacco, hemp, or any nonnarcotic substance if such substance  
9 may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et  
10 seq., as such act existed on January 1, 2014, and the law of this state,  
11 be lawfully sold over the counter without a prescription;

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

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

21 (7) Division of Drug Control means the personnel of the Nebraska  
22 State Patrol who are assigned to enforce the Uniform Controlled  
23 Substances Act;

24 (8) Dispense means to deliver a controlled substance to an ultimate  
25 user or a research subject pursuant to a medical order issued by a  
26 practitioner authorized to prescribe, including the packaging, labeling,  
27 or compounding necessary to prepare the controlled substance for such  
28 delivery;

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

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



1 (11) Drug means (a) articles recognized in the official United  
2 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United  
3 States, official National Formulary, or any supplement to any of them,  
4 (b) substances intended for use in the diagnosis, cure, mitigation,  
5 treatment, or prevention of disease in human beings or animals, and (c)  
6 substances intended for use as a component of any article specified in  
7 subdivision (a) or (b) of this subdivision, but does not include devices  
8 or their components, parts, or accessories;

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

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

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

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

25 (c) Marijuana does not include hemp.

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

30 (e) When industrial hemp as defined in section 2-5701 is in the  
31 possession of a person as authorized under section 2-5701, it is not

1 considered marijuana for purposes of the Uniform Controlled Substances  
2 Act;

3 (15) ~~(14)~~ Manufacture means the production, preparation,  
4 propagation, conversion, or processing of a controlled substance, either  
5 directly or indirectly, by extraction from substances of natural origin,  
6 independently by means of chemical synthesis, or by a combination of  
7 extraction and chemical synthesis, and includes any packaging or  
8 repackaging of the substance or labeling or relabeling of its container.  
9 Manufacture does not include the preparation or compounding of a  
10 controlled substance by an individual for his or her own use, except for  
11 the preparation or compounding of components or ingredients used for or  
12 intended to be used for the manufacture of methamphetamine, or the  
13 preparation, compounding, conversion, packaging, or labeling of a  
14 controlled substance: (a) By a practitioner as an incident to his or her  
15 prescribing, administering, or dispensing of a controlled substance in  
16 the course of his or her professional practice; or (b) by a practitioner,  
17 or by his or her authorized agent under his or her supervision, for the  
18 purpose of, or as an incident to, research, teaching, or chemical  
19 analysis and not for sale;

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

1 isoquinoline alkaloids of opium;

2 (17) ~~(16)~~ Opiate means any substance having an addiction-forming or  
3 addiction-sustaining liability similar to morphine or being capable of  
4 conversion into a drug having such addiction-forming or addiction-  
5 sustaining liability. Opiate does not include the dextrorotatory isomer  
6 of 3-methoxy-n methylmorphinan and its salts. Opiate includes its racemic  
7 and levorotatory forms;

8 (18) ~~(17)~~ Opium poppy means the plant of the species *Papaver*  
9 *somniferum* L., except the seeds thereof;

10 (19) ~~(18)~~ Poppy straw means all parts, except the seeds, of the  
11 opium poppy after mowing;

12 (20) ~~(19)~~ Person means any corporation, association, partnership,  
13 limited liability company, or one or more persons;

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

23 (22) ~~(21)~~ Production includes the manufacture, planting,  
24 cultivation, or harvesting of a controlled substance;

25 (23) ~~(22)~~ Immediate precursor means a substance which is the  
26 principal compound commonly used or produced primarily for use and which  
27 is an immediate chemical intermediary used or likely to be used in the  
28 manufacture of a controlled substance, the control of which is necessary  
29 to prevent, curtail, or limit such manufacture;

30 (24) ~~(23)~~ State means the State of Nebraska;

31 (25) ~~(24)~~ Ultimate user means a person who lawfully possesses a

1 controlled substance for his or her own use, for the use of a member of  
2 his or her household, or for administration to an animal owned by him or  
3 her or by a member of his or her household;

4 (26) ~~(25)~~ Hospital has the same meaning as in section 71-419;

5 (27) ~~(26)~~ Cooperating individual means any person, other than a  
6 commissioned law enforcement officer, who acts on behalf of, at the  
7 request of, or as agent for a law enforcement agency for the purpose of  
8 gathering or obtaining evidence of offenses punishable under the Uniform  
9 Controlled Substances Act;

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

15 (b) When resins extracted from (i) industrial hemp as defined in  
16 section 2-5701 are in the possession of a person as authorized under  
17 section 2-5701 or (ii) hemp as defined in section 3 of this act are in  
18 the possession of a person as authorized under the Nebraska Hemp Farming  
19 Act, they are not considered hashish or concentrated cannabis for  
20 purposes of the Uniform Controlled Substances Act;

21 (29) ~~(28)~~ Exceptionally hazardous drug means (a) a narcotic drug,  
22 (b) thiophene analog of phencyclidine, (c) phencyclidine, (d)  
23 amobarbital, (e) secobarbital, (f) pentobarbital, (g) amphetamine, or (h)  
24 methamphetamine;

25 (30) ~~(29)~~ Imitation controlled substance means a substance which is  
26 not a controlled substance or controlled substance analogue but which, by  
27 way of express or implied representations and consideration of other  
28 relevant factors including those specified in section 28-445, would lead  
29 a reasonable person to believe the substance is a controlled substance or  
30 controlled substance analogue. A placebo or registered investigational  
31 drug manufactured, distributed, possessed, or delivered in the ordinary

1 course of practice or research by a health care professional shall not be  
2 deemed to be an imitation controlled substance;

3 (31)(a) ~~(30)(a)~~ Controlled substance analogue means a substance (i)  
4 the chemical structure of which is substantially similar to the chemical  
5 structure of a Schedule I or Schedule II controlled substance as provided  
6 in section 28-405 or (ii) which has a stimulant, depressant, analgesic,  
7 or hallucinogenic effect on the central nervous system that is  
8 substantially similar to or greater than the stimulant, depressant,  
9 analgesic, or hallucinogenic effect on the central nervous system of a  
10 Schedule I or Schedule II controlled substance as provided in section  
11 28-405. A controlled substance analogue shall, to the extent intended for  
12 human consumption, be treated as a controlled substance under Schedule I  
13 of section 28-405 for purposes of the Uniform Controlled Substances Act;  
14 and

15 (b) Controlled substance analogue does not include (i) a controlled  
16 substance, (ii) any substance generally recognized as safe and effective  
17 within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.  
18 301 et seq., as such act existed on January 1, 2014, (iii) any substance  
19 for which there is an approved new drug application, or (iv) with respect  
20 to a particular person, any substance if an exemption is in effect for  
21 investigational use for that person, under section 505 of the Federal  
22 Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on  
23 January 1, 2014, to the extent conduct with respect to such substance is  
24 pursuant to such exemption;

25 (32) ~~(31)~~ Anabolic steroid means any drug or hormonal substance,  
26 chemically and pharmacologically related to testosterone (other than  
27 estrogens, progestins, and corticosteroids), that promotes muscle growth  
28 and includes any controlled substance in Schedule III(d) of section  
29 28-405. Anabolic steroid does not include any anabolic steroid which is  
30 expressly intended for administration through implants to cattle or other  
31 nonhuman species and has been approved by the Secretary of Health and

1 Human Services for such administration, but if any person prescribes,  
2 dispenses, or distributes such a steroid for human use, such person shall  
3 be considered to have prescribed, dispensed, or distributed an anabolic  
4 steroid within the meaning of this subdivision;

5 (33) ~~(32)~~ Chart order means an order for a controlled substance  
6 issued by a practitioner for a patient who is in the hospital where the  
7 chart is stored or for a patient receiving detoxification treatment or  
8 maintenance treatment pursuant to section 28-412. Chart order does not  
9 include a prescription;

10 (34) ~~(33)~~ Medical order means a prescription, a chart order, or an  
11 order for pharmaceutical care issued by a practitioner;

12 (35) ~~(34)~~ Prescription means an order for a controlled substance  
13 issued by a practitioner. Prescription does not include a chart order;

14 (36) ~~(35)~~ Registrant means any person who has a controlled  
15 substances registration issued by the state or the Drug Enforcement  
16 Administration of the United States Department of Justice;

17 (37) ~~(36)~~ Reverse distributor means a person whose primary function  
18 is to act as an agent for a pharmacy, wholesaler, manufacturer, or other  
19 entity by receiving, inventorying, and managing the disposition of  
20 outdated, expired, or otherwise nonsaleable controlled substances;

21 (38) ~~(37)~~ Signature means the name, word, or mark of a person  
22 written in his or her own hand with the intent to authenticate a writing  
23 or other form of communication or a digital signature which complies with  
24 section 86-611 or an electronic signature;

25 (39) ~~(38)~~ Facsimile means a copy generated by a system that encodes  
26 a document or photograph into electrical signals, transmits those signals  
27 over telecommunications lines, and reconstructs the signals to create an  
28 exact duplicate of the original document at the receiving end;

29 (40) ~~(39)~~ Electronic signature has the definition found in section  
30 86-621;

31 (41) ~~(40)~~ Electronic transmission means transmission of information

1 in electronic form. Electronic transmission includes computer-to-computer  
2 transmission or computer-to-facsimile transmission;

3 ~~(42)~~ ~~(41)~~ Long-term care facility means an intermediate care  
4 facility, an intermediate care facility for persons with developmental  
5 disabilities, a long-term care hospital, a mental health substance use  
6 treatment center, a nursing facility, or a skilled nursing facility, as  
7 such terms are defined in the Health Care Facility Licensure Act;

8 ~~(43)~~ ~~(42)~~ Compounding has the same meaning as in section 38-2811;

9 ~~(44)~~ ~~(43)~~ Cannabinoid receptor agonist shall mean any chemical  
10 compound or substance that, according to scientific or medical research,  
11 study, testing, or analysis, demonstrates the presence of binding  
12 activity at one or more of the CB1 or CB2 cell membrane receptors located  
13 within the human body; and

14 ~~(45)~~ ~~(44)~~ Lookalike substance means a product or substance, not  
15 specifically designated as a controlled substance in section 28-405, that  
16 is either portrayed in such a manner by a person to lead another person  
17 to reasonably believe that it produces effects on the human body that  
18 replicate, mimic, or are intended to simulate the effects produced by a  
19 controlled substance or that possesses one or more of the following  
20 indicia or characteristics:

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

25 (b) The name or packaging of the product or substance uses images or  
26 labels suggesting that it is a controlled substance or produces effects  
27 on the human body that replicate or mimic those produced by a controlled  
28 substance;

29 (c) The product or substance is marketed or advertised for a  
30 particular use or purpose and the cost of the product or substance is  
31 disproportionately higher than other products or substances marketed or

1 advertised for the same or similar use or purpose;

2 (d) The packaging or label on the product or substance contains  
3 words or markings that state or suggest that the product or substance is  
4 in compliance with state and federal laws regulating controlled  
5 substances;

6 (e) The owner or person in control of the product or substance uses  
7 evasive tactics or actions to avoid detection or inspection of the  
8 product or substance by law enforcement authorities;

9 (f) The owner or person in control of the product or substance makes  
10 a verbal or written statement suggesting or implying that the product or  
11 substance is a synthetic drug or that consumption of the product or  
12 substance will replicate or mimic effects on the human body to those  
13 effects commonly produced through use or consumption of a controlled  
14 substance;

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

19 (h) The product or substance contains a chemical or chemical  
20 compound that does not have a legitimate relationship to the use or  
21 purpose claimed by the seller, distributor, packer, or manufacturer of  
22 the product or substance or indicated by the product name, appearing on  
23 the product's packaging or label or depicted in advertisement of the  
24 product or substance.

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

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

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