

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1152

Introduced by Halloran, 33; Brandt, 32; Wayne, 13.

Read first time January 22, 2020

Committee: Agriculture

1 A BILL FOR AN ACT relating to hemp; to amend section 28-401.01, Revised
2 Statutes Cumulative Supplement, 2018, and sections 2-501, 2-503,
3 2-504, 2-505, 2-506, 2-507, 2-510, 2-511, 2-512, 2-514, 2-515,
4 2-516, 2-517, 2-5701, and 28-101, Revised Statutes Supplement, 2019;
5 to provide, change, and eliminate definitions; to change provisions
6 relating to licenses, the cultivation, testing, and transportation
7 of hemp, violations, Department of Agriculture duties and powers,
8 and appointment of the Nebraska Hemp Commission; to provide
9 legislative intent regarding licensing and appropriations; to
10 provide a termination date; to provide a penalty; to harmonize
11 provisions; to provide operative dates; to repeal the original
12 sections; and to declare an emergency.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-501, Revised Statutes Supplement, 2019, is
2 amended to read:

3 2-501 Sections 2-501 to 2-519 and section 14 of this act shall be
4 known and may be cited as the Nebraska Hemp Farming Act.

5 Sec. 2. Section 2-503, Revised Statutes Supplement, 2019, is amended
6 to read:

7 2-503 For purposes of the Nebraska Hemp Farming Act:

8 (1) Acceptable hemp THC level has the same meaning as in 7 C.F.R.
9 990.1, as such section existed on January 1, 2020;

10 (2) Agriculture Improvement Act of 2018 means section 10113 of the
11 federal Agriculture Improvement Act of 2018, Public Law 115-334, and any
12 regulations adopted and promulgated under such section, as such section,
13 act, and regulations existed on January 1, 2020;

14 (3) Approved testing facility means a testing facility approved by
15 the department;

16 (4) ~~(1)~~ Broker means a person who engages or participates in the
17 marketing of hemp by acting as an intermediary or negotiator between
18 prospective buyers and sellers;

19 (5) ~~(2)~~ Commercial sale means the sale of products in the stream of
20 commerce, at retail, wholesale, and online;

21 (6) ~~(3)~~ Commission means the Nebraska Hemp Commission;

22 (7) ~~(4)~~ Cultivate or cultivating means planting, watering, growing,
23 and harvesting a hemp plant or crop. The presence of plants of the plant
24 Cannabis sativa L. growing as uncultivated, naturalized plants in the
25 environment is not cultivating hemp for purposes of the Nebraska Hemp
26 Farming Act;

27 (8) ~~(5)~~ Cultivator means a person who cultivates hemp;

28 (9) ~~(6)~~ Department means the Department of Agriculture;

29 (10) ~~(7)~~ Director means the Director of Agriculture or his or her
30 designee;

31 ~~(8) Federally defined THC level for hemp means a delta-9~~

1 ~~tetrahydrocannabinol concentration of not more than 0.3 percent on a dry~~
2 ~~weight basis as defined in section 10113 of the federal Agriculture~~
3 ~~Improvement Act of 2018, Public Law 115-334, as such section existed on~~
4 ~~January 1, 2019;~~

5 (11) ~~(9)~~ GPS coordinates means latitude and longitude coordinates
6 derived from a global positioning system;

7 (12) ~~(10)~~ Handle or handling means possessing or storing hemp plants
8 or hemp plant parts prior to cultivation, in the process of cultivation,
9 or after being harvested or dried but before processing for any period of
10 time on premises owned, operated, or controlled by a person licensed to
11 cultivate or process hemp. Handle or handling also includes possessing or
12 storing such hemp plants or hemp plant parts in a vehicle for any period
13 of time other than during its actual transport from the premises of a
14 person licensed to cultivate or process hemp to the premises of another
15 licensee licensed person. Handle or handling does not include possessing,
16 storing, or transporting post-processed hemp, consumable hemp products,
17 or nonconsumable finished hemp products;

18 (13) ~~(11)~~ Hemp means the plant Cannabis sativa L. and any part of
19 such plant, including the viable seeds of such plant and all derivatives,
20 extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
21 whether growing or not, with a delta-9 tetrahydrocannabinol concentration
22 of not more than 0.3 percent on a dry weight basis. Hemp shall be
23 considered an agricultural commodity. Notwithstanding any other provision
24 of law, hemp shall not be considered a controlled substance under the
25 Uniform Controlled Substances Act;

26 (14) ~~(12)~~ Licensee means an individual or a business entity
27 possessing a license issued by the department under the Nebraska Hemp
28 Farming Act, including authorized employees or agents of such licensee,
29 to cultivate, handle, process, or broker hemp;

30 (15) ~~(13)~~ Location ID means the unique identifier established by a
31 licensee for each unique set of GPS coordinates where hemp is cultivated,

1 handled, or processed;

2 (16) Lot means a contiguous area in a field, greenhouse, or indoor
3 growing structure containing the same variety or strain of hemp
4 throughout such area;

5 (17) Measurement of uncertainty has the same meaning as in 7 C.F.R.
6 990.1, as such section existed on January 1, 2020;

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

11 (18) (15) Person means an individual, partnership, corporation,
12 limited liability company, association, postsecondary institution, or
13 other legal entity;

14 (19) (16) Postsecondary institution means a postsecondary
15 institution as defined in section 85-2403 that also meets the
16 requirements of 20 U.S.C. 1001, as such section existed on January 1,
17 2019;

18 (20) (17) Process or processing means converting hemp plants or
19 plant parts into a marketable form;

20 (21) (18) Processor-handler means a person who handles or processes
21 hemp;

22 (22) (19) Site means an area defined by the same legal description
23 in a field, greenhouse, or other outdoor area or indoor structure, or for
24 a mobile processor, such processor's primary place of business;

25 ~~(20) Testing facility means a testing facility approved by the~~
26 ~~department; and~~

27 (23) (21) THC means tetrahydrocannabinol; and -

28 (24) USDA-licensed hemp producer means a person licensed by the
29 United States Department of Agriculture to produce hemp as provided in 7
30 C.F.R. part 990, subpart C, as such regulations existed on January 1,
31 2020.

1 Sec. 3. Section 2-504, Revised Statutes Supplement, 2019, is amended
2 to read:

3 2-504 (1) Subject to the Nebraska Hemp Farming Act ~~Notwithstanding~~
4 ~~any other provision of law~~, it shall be lawful:

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

8 (b) To possess, transport, sell, and purchase lawfully produced hemp
9 products.

10 (2) The department shall establish, operate, and administer a
11 program to license and regulate cultivators, processor-handlers, and
12 brokers that meets the requirements of ~~section 10113 of the federal~~
13 ~~Agriculture Improvement Act of 2018, Public Law 115-334, as such section~~
14 ~~existed on January 1, 2019, and the Nebraska Hemp Farming Act. Nebraska~~
15 ~~heirloom cannabis plant or seed not being cultivated for commercial~~
16 ~~purposes is not subject to the Nebraska Hemp Farming Act.~~

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

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

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

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

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

1 (e) A procedure for conducting, at a minimum, annual inspections of
2 a random sample of hemp cultivators and processor-handlers to verify that
3 hemp is not cultivated, processed, or handled in violation of the
4 Nebraska Hemp Farming Act or the state plan as described in section
5 2-516. The department may, at its discretion, conduct other inspections
6 of a cultivator's or processor-handler's operation, including all sites
7 registered with the department;

8 (f) A procedure for submitting required information to the United
9 States Secretary of Agriculture not more than thirty days after the
10 information is received;~~and~~

11 (g) Standards governing the approval and denial of license
12 applications by cultivators, processor-handlers, and brokers;

13 (h) Developing a bill of lading form for use by a person
14 transporting hemp as provided in section 18 of this act. Such bill of
15 lading shall, at a minimum:

16 (i) Identify the transporting person;

17 (ii) List a traceable reference, in accordance with the federal
18 Agriculture Improvement Act of 2018, to the lot in which the hemp was
19 grown, matching the lot listed on the test results or other documentation
20 required by section 2-515 or section 18 of this act; and

21 (iii) Indicate the owner, shipping point of origin, and destination
22 of the hemp;

23 (i) In consultation with the Nebraska State Patrol, standards for
24 transporting hemp in this state to ensure that marijuana or any other
25 controlled substance is not disguised as hemp and transported into,
26 within, or through this state; and

27 (j) ~~(g)~~ Any other standard, practice, or procedure required by the
28 Nebraska Hemp Farming Act or the federal Agricultural Improvement Act of
29 2018.

30 Sec. 4. Section 2-505, Revised Statutes Supplement, 2019, is amended
31 to read:

1 2-505 (1) Hemp may only be cultivated by a USDA-licensed hemp
2 producer or a person meeting the requirements of section 2-5701 or in
3 compliance with this section.

4 (2) Before a person may be licensed to cultivate hemp under the
5 Nebraska Hemp Farming Act, such person shall submit an application on a
6 form prescribed by the department that includes, but is not limited to,
7 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, (i) the
11 name of the applicant, mailing address, telephone number, and valid email
12 address, (ii) the full name of each officer, director, partner, member,
13 or owner owning in excess of ten percent of equity or stock in such
14 entity, (iii) the full name of each key participant as defined in 7
15 C.F.R. 990.1, and (iv) the birthdate, title, mailing address, telephone
16 number, and valid email address of each such person or key participant;

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

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

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

27 (3) Before a person may be licensed to cultivate hemp under the
28 Nebraska Hemp Farming Act, such person shall submit with the application
29 a nonrefundable application fee as set by the department pursuant to
30 section 2-508.

31 (4) Before a person may be licensed to cultivate hemp under the

1 Nebraska Hemp Farming Act, such person shall submit ~~with the application~~
2 a site registration fee as set by the department pursuant to section
3 2-508. The site registration fee shall be paid for each separate site
4 where the applicant will cultivate hemp. Subsequent modifications to the
5 sites listed in the application shall be submitted on forms prescribed by
6 the department along with a site modification fee and shall only take
7 effect upon written approval of the department. The applicant must
8 certify that all sites where hemp is to be cultivated are under the
9 control of the applicant and that the department shall have unlimited
10 access to all such sites.

11 (5) After the department receives approval by the United States
12 Secretary of Agriculture for the state plan described in section 2-516,
13 an initial cultivator license application may be submitted at any time,
14 except that the department may set a cutoff date for applications ahead
15 of the growing season. An initial cultivator license issued by the
16 department expires on December 31 in the calendar year for which it was
17 issued.

18 (6) A renewal application for a license to cultivate hemp shall be
19 submitted on forms prescribed by the department. A renewal application is
20 due by December 31 and shall be accompanied by the cultivator license fee
21 and the site registration fee for all sites listed in the renewal
22 application. The renewal cultivator license is valid from January 1 or
23 when the license is granted, whichever is later, through December 31 next
24 following.

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

29 (8) An application and supporting documents submitted to the
30 department under this section are not public records subject to
31 disclosure pursuant to sections 84-712 to 84-712.09. Such information may

1 be submitted to the United States Department of Agriculture pursuant to
2 the requirements of ~~section 10113~~ of the federal Agriculture Improvement
3 Act of 2018, ~~Public Law 115-334~~, as such section existed on January 1,
4 ~~2019~~, or any other federal statute, rule, or regulation, and may be
5 submitted to law enforcement.

6 Sec. 5. Section 2-506, Revised Statutes Supplement, 2019, is amended
7 to read:

8 2-506 (1) Except for handling by an approved testing facility, a
9 USDA-licensed hemp producer, or a cultivator licensed under section 2-505
10 facilities, a person shall not process, handle, or broker hemp plants or
11 plant parts other than hemp seeds in this state unless the person meets
12 the requirements of section 2-5701 or is in compliance with this section
13 and licensed as a processor-handler or broker under the Nebraska Hemp
14 Farming Act.

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

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

21 (b) If the applicant is an entity and not an individual, the name of
22 the applicant, mailing address, telephone number, and valid email
23 address, the full name of each officer and director, partner, member, or
24 owner owning in excess of ten percent of equity or stock in such entity,
25 and the birthdate, title, mailing address, telephone number, and valid
26 email address of each such person;

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

30 (d) Maps depicting the site where hemp will be processed or handled,
31 if applicable, with appropriate indications for entrances and specific

1 locations corresponding to the GPS coordinates provided under subdivision
2 (c) of this subsection.

3 (3) Before a person ~~other than an approved testing facility~~ may be
4 licensed to process, handle, or broker hemp, such person shall submit
5 with the application a nonrefundable application fee as set by the
6 department pursuant to section 2-508.

7 (4) Before a person ~~other than an approved testing facility~~ may be
8 licensed to process or handle hemp, such person shall submit ~~with the~~
9 ~~application~~ a nonrefundable site registration fee as set by the
10 department pursuant to section 2-508. The site registration fee shall be
11 paid for each separate site where hemp is processed or handled.
12 Subsequent modifications to the sites listed in the application shall be
13 submitted on forms prescribed by the department along with the site
14 modification fee and shall only take effect upon written approval of the
15 department. The applicant must certify that all sites where hemp is to be
16 processed or handled are under the control of the applicant and that the
17 department shall have unlimited access to all such sites.

18 (5) ~~An~~ After the department receives approval by the United States
19 Secretary of Agriculture for the state plan submitted pursuant to section
20 ~~2-516,~~ an initial processor-handler or broker license application may be
21 submitted at any time. An initial processor-handler or broker license
22 issued by the department expires on December 31 in the calendar year for
23 which it was issued.

24 (6) A renewal application for a processor-handler or broker license
25 shall be submitted on forms prescribed by the department. A renewal
26 application is due by December 31 and shall be accompanied by the
27 processor-handler or broker license fee and, if applicable, the site
28 registration fee for all sites listed in the renewal application. The
29 renewal processor-handler or broker license is valid from January 1 or
30 when the license is granted, whichever is later, through December 31 next
31 following.

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

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

7 (9) An application and supporting documents submitted to the
8 department under this section are not public records subject to
9 disclosure pursuant to sections 84-712 to 84-712.09. Such information may
10 be submitted to the United States Department of Agriculture pursuant to
11 the requirements of ~~section 10113 of the federal Agriculture Improvement~~
12 ~~Act of 2018, Public Law 115-334, as such section existed on January 1,~~
13 ~~2019,~~ or any other federal statute, rule, or regulation, and may be
14 submitted to law enforcement.

15 Sec. 6. Section 2-507, Revised Statutes Supplement, 2019, is amended
16 to read:

17 2-507 (1) The department ~~shall deny~~ may adopt and promulgate rules
18 ~~and regulations governing the approval and denial of~~ cultivator,
19 processor-handler, and broker license applications. ~~Such applications~~
20 ~~shall be denied~~ if they are incomplete or deficient, or if the applicant
21 does not meet minimum qualifications, including, but not limited to:

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

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

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

27 (d) The applicant has not had a cultivator, processor-handler, or
28 broker license revoked in the five years preceding the date of
29 application; ~~or~~

30 (e) The applicant has not been deemed ineligible:

31 (i) At any time under this section;

1 (ii) In the five years preceding the date of application under
2 section 2-511; or

3 (iii) In the ten years preceding the date of application under
4 section 2-512; or

5 (f) ~~(e)~~ Any individual listed in the application for a cultivator,
6 processor-handler, or broker license has not been convicted of a felony
7 related to a controlled substance under either state or federal law
8 within the preceding ten years.

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

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

18 (4) A person aggrieved by the denial of a license may request a
19 hearing pursuant to section 2-513.

20 Sec. 7. Section 2-510, Revised Statutes Supplement, 2019, is amended
21 to read:

22 2-510 (1) A cultivator, processor-handler, or broker consents to all
23 of the following:

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

31 (b) Entry onto, and inspection of, all registered sites by the

1 department or by persons at the direction of the department, with or
2 without cause, and with reasonable advance notice;

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

4 (d) Destruction of any of the following:

5 (i) Hemp found to have a measured delta-9 tetrahydrocannabinol
6 concentration greater than the acceptable hemp THC level. Only hemp from
7 lots found to have a measured delta-9 tetrahydrocannabinol concentration
8 greater than the acceptable hemp THC level shall be subject to
9 destruction that allowed by the Nebraska Hemp Farming Act;

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

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

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

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

23 Sec. 8. Section 2-511, Revised Statutes Supplement, 2019, is amended
24 to read:

25 2-511 (1) For purposes of this section, a negligent violation shall
26 include, but not be limited to:

27 (a) Failure to provide an accurate legal description of land on
28 which a person cultivates hemp;

29 (b) Failure to obtain a license or other required authorization from
30 the department; or

31 (c) Production of cannabis with a delta-9 tetrahydrocannabinol

1 concentration exceeding the acceptable hemp THC level. A cultivator does
2 not commit a negligent violation under this subsection if the cultivator
3 has made reasonable efforts to grow hemp and the cannabis does not have a
4 delta-9 tetrahydrocannabinol concentration of more than 0.5 percent on a
5 dry weight basis.

6 (2) ~~(1)~~ Upon a determination by the director that any person in the
7 state has negligently unintentionally violated the Nebraska Hemp Farming
8 Act, a state plan as described in section 2-516 approved by the United
9 States Department of Agriculture, any rules and regulations adopted and
10 promulgated under the act, a corrective action plan issued pursuant to
11 this section, or an order of the director, the director may:

12 (a) Issue an order specifying the provisions of the act, state plan,
13 rule or regulation, corrective action plan, or order alleged to have been
14 ~~be~~ violated and the facts alleged to constitute a violation;

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

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

18 (3) ~~(2)~~ Any person who commits a negligent violation under this
19 section shall not be subject to any additional criminal enforcement by
20 state or local government authorities other than authorized under this
21 section.

22 (4) ~~(3)~~ Any person who negligently unintentionally violates the
23 Nebraska Hemp Farming Act, a state plan as described in section 2-516
24 approved by the United States Department of Agriculture, any rules and
25 regulations adopted and promulgated under the act, a corrective action
26 plan issued pursuant to this section, or an order of the director three
27 times in a five-year period shall be ineligible to obtain a license to
28 cultivate, handle, process, or broker hemp for a period of five years
29 beginning on the date of the third violation.

30 (5) ~~(4)~~ If the director orders issuance of a corrective action plan,
31 such plan may include:

1 (a) A reasonable date by which the licensee shall correct the
2 ~~negligent unintentional~~ violation;

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

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

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

10 ~~(6) (5)~~ Upon violation of a corrective action plan, the director may
11 issue an amended corrective action plan.

12 ~~(7) (6)~~ A person aggrieved by an order of the director may request a
13 hearing pursuant to section 2-513.

14 ~~(8) (7)~~ The director shall advise the Attorney General of the
15 failure of any person to pay an administrative fine imposed under this
16 section. The Attorney General shall bring an action in Lancaster County
17 district court to recover the fine.

18 ~~(9) (8)~~ Any administrative fine collected under this section shall
19 be remitted to the State Treasurer for distribution in accordance with
20 Article VII, section 5, of the Constitution of Nebraska.

21 Sec. 9. Section 2-512, Revised Statutes Supplement, 2019, is amended
22 to read:

23 2-512 (1) Upon a determination by the director that any person in
24 the state has, with a culpable mental state greater than negligence,
25 ~~intentionally~~ violated the Nebraska Hemp Farming Act, a state plan
26 approved by the United States Department of Agriculture, any rules and
27 regulations adopted and promulgated under the act, or an order of the
28 director, the director shall:

29 (a) Notify the United States Attorney General;

30 (b) Notify the Attorney General; and

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

1 occurred.

2 (2) Any person who, with a culpable mental state greater than
3 negligence, intentionally violates the Nebraska Hemp Farming Act, a state
4 plan as described in section 2-516 approved by the United States
5 Department of Agriculture, any rules and regulations adopted and
6 promulgated under the act, a corrective action plan issued pursuant to
7 this section, or an order of the director three times in a five-year
8 period shall be ineligible to obtain a license to cultivate, handle,
9 process, or broker hemp for a period of ten years beginning on the date
10 of the third violation.

11 (3) A person aggrieved by an order of the director may request a
12 hearing pursuant to section 2-513.

13 (4) For purposes of this section, culpable mental state greater than
14 negligence means to act intentionally, knowingly, willfully, or
15 recklessly.

16 Sec. 10. Section 2-514, Revised Statutes Supplement, 2019, is
17 amended to read:

18 2-514 (1) Hemp from each cultivation site registered with the
19 department shall be sampled for compliance with the acceptable hemp THC
20 level within fifteen days tested for delta-9 tetrahydrocannabinol
21 concentration prior to harvest and tested by an approved testing facility
22 at the licensee's expense. Testing shall be performed for each lot of
23 hemp growing at the cultivation site. The results of such tests shall be
24 certified directly to the department by the approved testing facility
25 prior to harvest. The test results shall identify the lot for the hemp
26 represented by the sample location ID where the hemp was cultivated.

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

29 (3) The department may adopt and promulgate rules and regulations
30 governing the sampling and testing of hemp, including, but not limited
31 to, the number of samples required, the procedure for gathering samples,

1 and certification of the test results to the department.

2 (4) Testing of hemp required under this section shall be conducted
3 pursuant to standards adopted by the department using post-
4 decarboxylation or other similarly reliable methods for the testing of
5 delta-9 tetrahydrocannabinol concentration. The testing methodology shall
6 consider the potential conversion of delta-9 tetrahydrocannabinolic acid
7 in hemp into THC and the test results shall measure total available THC
8 derived from the sum of the THC and delta-9 tetrahydrocannabinolic acid
9 content.

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

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

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

16 (8) The test sample shall be obtained in compliance with the
17 Agriculture Improvement Act of 2018 ~~from flowering tops when flowering is~~
18 ~~occurring, shall be approximately eight inches in length, and shall~~
19 ~~consist of the fan leaf, the stalk, the flower, and, if available, the~~
20 ~~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. Measurement of
25 uncertainty shall be estimated and reported with test results.
26 Laboratories shall use appropriate validated methods and procedures for
27 all testing activities and evaluation of measurement of uncertainty. For
28 tests directed by the department, the report shall be provided to the
29 licensee and a copy of the report shall be issued to the department. The
30 report shall be provided before the harvest date, if applicable.

31 (11) When a test result is adverse, the department may require a

1 licensee to have further tests done and may require harvesting and
2 destruction of any plants in any portions of the site containing
3 noncompliant plants.

4 Sec. 11. Section 2-515, Revised Statutes Supplement, 2019, is
5 amended to read:

6 2-515 (1) Any cultivator transporting hemp cultivated under the
7 Nebraska Hemp Farming Act shall carry with the hemp being transported a
8 copy of the cultivator license under which it was cultivated and, except
9 for samples of hemp being transported for testing to determine the THC
10 level pursuant to section 2-514 or for any other official or private
11 testing purpose, a copy of the test results pertaining to each lot of
12 such hemp being transported.

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

17 (3) At least seven days prior to the transportation of hemp
18 initiated by a licensee, such licensee shall notify the department of the
19 estimated date the hemp will be transported from the registered site.
20 Such notification shall be given in a form and manner prescribed by the
21 department. The department will provide such notification to the Nebraska
22 State Patrol within two business days of receiving the notification from
23 the licensee.

24 ~~(3) Any person other than a cultivator or processor-handler who is~~
25 ~~transporting hemp shall carry with such hemp being transported (a) a bill~~
26 ~~of lading indicating the owner of the hemp, the point of origin of the~~
27 ~~hemp, and the destination of the hemp and (b) either a copy of the test~~
28 ~~results pertaining to such hemp or other documentation affirming that the~~
29 ~~hemp was produced in compliance with section 10113 of the federal~~
30 ~~Agriculture Improvement Act of 2018, Public Law 115-334, as such section~~
31 ~~existed on January 1, 2019.~~

1 ~~(4)(a) The department may develop a form bill of lading for use by a~~
2 ~~person transporting hemp pursuant to subsection (3) of this section for~~
3 ~~hemp originating in this state. Such bill of lading shall, at a minimum,~~
4 ~~identify the transporting person and indicate the owner, point of origin,~~
5 ~~and destination of the hemp.~~

6 ~~(b) The department, in consultation with the Nebraska State Patrol,~~
7 ~~may adopt and promulgate rules and regulations regulating the carrying or~~
8 ~~transporting of hemp in this state to ensure that marijuana or any other~~
9 ~~controlled substance is not disguised as hemp and carried or transported~~
10 ~~into, within, or through this state.~~

11 ~~(c) No person shall carry or transport hemp in this state unless~~
12 ~~such hemp is:~~

13 ~~(i) Produced in compliance with:~~

14 ~~(A) For hemp originating in this state, the requirements of section~~
15 ~~10113 of the federal Agriculture Improvement Act of 2018, Public Law~~
16 ~~115-334, as such section existed on January 1, 2019, and the Nebraska~~
17 ~~Hemp Farming Act and any rules and regulations adopted and promulgated~~
18 ~~thereunder; or~~

19 ~~(B) For hemp originating outside this state, the requirements of~~
20 ~~section 10113 of the federal Agriculture Improvement Act of 2018, Public~~
21 ~~Law 115-334, as such section existed on January 1, 2019; and~~

22 ~~(ii) Carried or transported as provided in subsection (1), (2), or~~
23 ~~(3) of this section.~~

24 ~~(d) No person shall transport hemp in this state concurrently with~~
25 ~~any other plant material that is not hemp.~~

26 ~~(5)(a) A peace officer may detain any person carrying or~~
27 ~~transporting hemp in this state if such person does not provide the~~
28 ~~documentation required by this section. Unless the peace officer has~~
29 ~~probable cause to believe the hemp is, or is being carried or transported~~
30 ~~with, marijuana or any other controlled substance, the peace officer~~
31 ~~shall immediately release the hemp and the person carrying or~~

1 ~~transporting such hemp upon production of such documentation.~~

2 ~~(b) The failure of a person detained as described in this subsection~~
3 ~~to produce documentation required by this section shall constitute~~
4 ~~probable cause to believe the hemp may be marijuana or any other~~
5 ~~controlled substance. In such case, a peace officer may collect such hemp~~
6 ~~for testing to determine the delta-9 tetrahydrocannabinol concentration~~
7 ~~in the hemp, and, if the peace officer has probable cause to believe the~~
8 ~~person detained is carrying or transporting marijuana or any other~~
9 ~~controlled substance in violation of state or federal law, the peace~~
10 ~~officer may seize and impound the hemp or marijuana or other controlled~~
11 ~~substance and arrest such person.~~

12 ~~(c) This subsection does not limit or restrict in any way the power~~
13 ~~of a peace officer to enforce violations of the Uniform Controlled~~
14 ~~Substances Act and federal law regulating marijuana and other controlled~~
15 ~~substances.~~

16 ~~(6) In addition to any other penalties provided by law, including~~
17 ~~those imposed under the Nebraska Hemp Farming Act, any person who~~
18 ~~intentionally violates this section shall be guilty of a Class IV~~
19 ~~misdemeanor and fined not more than one thousand dollars.~~

20 Sec. 12. Section 2-516, Revised Statutes Supplement, 2019, is
21 amended to read:

22 2-516 (1) No later than December 31, 2019, the director, in
23 consultation with the Governor and the Attorney General, shall submit to
24 the United States Secretary of Agriculture for approval a state plan by
25 which the department shall regulate the cultivation, handling, and
26 processing of hemp. Such state plan shall include, at a minimum:

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

31 (b) A procedure for testing, using post-decarboxylation or other

1 similarly reliable methods, delta-9 tetrahydrocannabinol concentration of
2 hemp cultivated in Nebraska;

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

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

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

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

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

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

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

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

27 Sec. 13. Section 2-517, Revised Statutes Supplement, 2019, is
28 amended to read:

29 2-517 (1) The Nebraska Hemp Commission is created. The commission
30 shall consist of the following members:

31 (a) The dean of the University of Nebraska College of Agricultural

1 Sciences and Natural Resources or his or her designee;

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

4 (c) Three members appointed by the Governor representing the
5 following interests:

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

7 (ii) A manufacturer of hemp products.

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

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

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

26 (b) To prepare and approve a budget;

27 (c) To adopt and promulgate reasonable rules and regulations
28 necessary to carry out this section and section 2-519;

29 (d) To contract for services and authorize the expenditure of funds
30 which are necessary for the proper operation of this section and section
31 2-519;

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

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

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

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

16 (a) Federal laws and regulatory constraints;

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

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

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

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

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

24 (g) Law enforcement concerns;

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

27 (i) Technical support and education about hemp.

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

31 (6) The commission shall establish such programs with the goal of

1 securing at least twenty percent participation by small and emerging
2 businesses in the Nebraska hemp industry, including, but not limited to,
3 cultivating, handling, processing, transporting, marketing, and selling
4 hemp.

5 Sec. 14. (1) After the department receives approval by the United
6 States Secretary of Agriculture of the state plan as described in section
7 2-516, and as long as such state plan remains in effect, it is the intent
8 of the Legislature that all applications for licensure as a cultivator,
9 processor-handler, or broker under the Nebraska Hemp Farming Act shall be
10 accepted and considered, and that all persons meeting the requirements
11 for licensure under the act shall be issued a license.

12 (2) It is the further intent of the Legislature to appropriate fifty
13 thousand dollars from the General Fund for fiscal year 2020-21 and fifty
14 thousand dollars from the General Fund for fiscal year 2021-22, to Agency
15 No. 18, Department of Agriculture, Program No. 78, to supplement cash
16 funds derived from fees and other charges collected under the act to
17 defray the costs incurred by the department to carry out the act. The
18 Legislature intends that for fiscal year 2022-23 and each fiscal year
19 thereafter, the hemp licensure and regulatory program authorized under
20 the act shall be self-funding through fees and other charges collected
21 under the act.

22 Sec. 15. Section 2-5701, Revised Statutes Supplement, 2019, is
23 amended to read:

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

28 (2) Sites used for cultivating industrial hemp must be certified by,
29 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 2-516, a person with

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

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 2-508 for each one-year licensing
12 agreement and shall be required to submit a report for department
13 research purposes. The report shall be submitted as required by the
14 department. All fees collected by the department under this section shall
15 be remitted to the State Treasurer for credit to the Nebraska Hemp
16 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 2-513.

26 (e) The Department of Agriculture may adopt and promulgate rules and
27 regulations as necessary to carry out this section.

28 (4) For purposes of this section:

29 (a) Agricultural pilot program means a pilot program to study the
30 cultivation or marketing of industrial hemp;

31 (b) Cultivate and cultivator have the same meaning as in section

1 2-503;

2 (c) Handle has the same meaning as in section 2-503;

3 (d) Industrial hemp means hemp as defined in section 2-503;

4 (e) Postsecondary institution has the same meaning as in section
5 2-503; and

6 (f) Process and processor-handler have the same meaning as in
7 section 2-503.

8 (5) This section terminates on November 1, 2020.

9 Sec. 16. Section 28-101, Revised Statutes Supplement, 2019, is
10 amended to read:

11 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and section
12 18 of this act shall be known and may be cited as the Nebraska Criminal
13 Code.

14 Sec. 17. Section 28-401.01, Revised Statutes Cumulative Supplement,
15 2018, is amended to read:

16 28-401.01 Sections 28-401 to 28-456.01 and 28-458 to 28-475 and
17 section 18 of this act shall be known and may be cited as the Uniform
18 Controlled Substances Act.

19 Sec. 18. (1) Any person other than the Department of Agriculture, a
20 cultivator, a processor-handler, or an approved testing facility who is
21 transporting hemp shall carry with such hemp being transported (a) a bill
22 of lading indicating the owner of the hemp, the point of origin of the
23 hemp, and the destination of the hemp and (b) either a copy of the test
24 results pertaining to such hemp or other documentation affirming that the
25 hemp was produced in compliance with the federal Agriculture Improvement
26 Act of 2018.

27 (2)(a) No person shall carry or transport hemp in this state unless
28 such hemp is:

29 (i) Produced in compliance with:

30 (A) For hemp originating in this state, the requirements of the
31 federal Agriculture Improvement Act of 2018 and the Nebraska Hemp Farming

1 Act and any rules and regulations adopted and promulgated thereunder; or

2 (B) For hemp originating outside this state, the requirements of the
3 federal Agriculture Improvement Act of 2018; and

4 (ii) Carried or transported as provided in section 2-515 or
5 subsection (1) of this section.

6 (b) No person shall transport hemp in this state concurrently with
7 any other plant material that is not hemp.

8 (3)(a) A peace officer may detain any person carrying or
9 transporting hemp in this state if such person does not provide the
10 documentation required by this section and section 2-515. Unless the
11 peace officer has probable cause to believe the hemp is, or is being
12 carried or transported with, marijuana or any other controlled substance,
13 the peace officer shall immediately release the hemp and the person
14 carrying or transporting such hemp upon production of such documentation.

15 (b) The failure of a person detained as described in this subsection
16 to produce documentation required by this section shall constitute
17 probable cause to believe the hemp may be marijuana or another controlled
18 substance. In such case, a peace officer may collect such hemp for
19 testing to determine the delta-9 tetrahydrocannabinol concentration in
20 the hemp, and, if the peace officer has probable cause to believe the
21 person detained is carrying or transporting marijuana or any other
22 controlled substance in violation of state or federal law, the peace
23 officer may seize and impound the hemp or marijuana or other controlled
24 substance and arrest such person.

25 (c) This subsection does not limit or restrict in any way the power
26 of a peace officer to enforce violations of the Uniform Controlled
27 Substances Act and federal law regulating marijuana and other controlled
28 substances.

29 (4) In addition to any other penalties provided by law, including
30 those imposed under the Nebraska Hemp Farming Act, any person who
31 intentionally violates this section shall be guilty of a Class IV

1 misdemeanor and fined not more than one thousand dollars.

2 (5) This section does not apply to a person transporting hemp
3 products purchased at retail in small amounts for personal or household
4 use and not intended for resale.

5 (6) For purposes of this section:

6 (a) Agriculture Improvement Act of 2018 has the same meaning as in
7 section 2-503;

8 (b) Approved testing facility has the same meaning as in section
9 2-503;

10 (c) Cultivator has the same meaning as in section 2-503; and

11 (d) Processor-handler has the same meaning as in section 2-503.

12 Sec. 19. Sections 13 and 20 of this act become operative on July 1,
13 2021. The other sections of this act become operative on their effective
14 date.

15 Sec. 20. Original section 2-517, Revised Statutes Supplement, 2019,
16 is repealed.

17 Sec. 21. Original section 28-401.01, Revised Statutes Cumulative
18 Supplement, 2018, and sections 2-501, 2-503, 2-504, 2-505, 2-506, 2-507,
19 2-510, 2-511, 2-512, 2-514, 2-515, 2-516, 2-5701, and 28-101, Revised
20 Statutes Supplement, 2019, are repealed.

21 Sec. 22. Since an emergency exists, this act takes effect when
22 passed and approved according to law.