

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1133

Introduced by Wayne, 13.

Read first time January 18, 2018

Committee: Agriculture

1 A BILL FOR AN ACT relating to agriculture; to amend section 28-401,
2 Revised Statutes Supplement, 2017; to adopt the Industrial Hemp Act;
3 to provide an exemption under the Uniform Controlled Substances Act
4 as prescribed; to eliminate a provision permitting growth and
5 cultivation of industrial hemp by a postsecondary institution or the
6 Department of Agriculture; to provide an operative date; to repeal
7 the original section; and to outright repeal section 2-5701, Revised
8 Statutes Cumulative Supplement, 2016.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 11 of this act shall be known and may be
2 cited as the Industrial Hemp Act.

3 Sec. 2. (1) The purpose of the Industrial Hemp Act is to assist
4 Nebraska in moving to the forefront of industrial hemp production,
5 development, and commercialization of hemp products in agribusiness,
6 alternative fuel production, and other business sectors, both nationally
7 and globally and to the greatest extent possible. These purposes shall be
8 accomplished in part through:

9 (a) The industrial hemp research program overseen by the Department
10 of Agriculture, working in conjunction with the staff of the College of
11 Agricultural Sciences and Natural Resources at the University of Nebraska
12 and other research partners designated by the Director of Agriculture.
13 This research program shall include the planting, cultivation, testing,
14 and analysis of industrial hemp demonstration plots by selected growers
15 that are licensed by the department pursuant to section 9 of this act;
16 and

17 (b) The pursuit of any federal permits or waivers necessary to allow
18 industrial hemp to be grown in Nebraska.

19 (2) The Legislature hereby finds and declares that the authority
20 granted in the Industrial Hemp Act and the purposes accomplished by the
21 act are proper governmental and public purposes and that the development
22 of industrial hemp production and commercial markets for hemp products
23 within Nebraska is important to the economic well-being of the state.

24 Sec. 3. For purposes of the Industrial Hemp Act:

25 (1) Agribusiness means an industry engaged in the producing
26 operations of a farm, the manufacture and distribution of agricultural
27 equipment and supplies, or the processing, storage, and distribution of
28 agricultural commodities;

29 (2) Certified seed means industrial hemp seed including, but not
30 limited to, Nebraska heritage hemp seed, that has been certified as
31 having no more tetrahydrocannabinol concentration than that adopted by

1 federal law in the Controlled Substances Act, 21 U.S.C. 801 et seq.;

2 (3) Department means the Department of Agriculture;

3 (4) Director means the Director of Agriculture;

4 (5) Grower means any person licensed to grow industrial hemp by the
5 department pursuant to section 9 of this act;

6 (6) Hemp product means any product made from industrial hemp,
7 including, but not limited to, cloth, cordage, fiber, food, fuel, paint,
8 paper, particleboard, plastics, seed, seed meal and seed oil for
9 consumption, and certified seed for cultivation if the seeds originate
10 from industrial hemp varieties;

11 (7) Industrial hemp means all parts and varieties of the plant
12 Cannabis sativa, cultivated or possessed by a licensed grower, whether
13 growing or not, that contain a tetrahydrocannabinol concentration of no
14 more than that adopted by federal law in the Controlled Substances Act,
15 21 U.S.C. 801 et seq. Industrial hemp as defined in the Industrial Hemp
16 Act is excluded from the definition of marijuana and hashish or
17 concentrated cannabis in section 28-401;

18 (8) Nebraska heritage hemp seed means native or feral hemp seed that
19 possesses characteristics of the unique and specialized industrial hemp
20 seed varieties that originated in Nebraska and that has been recognized
21 historically as a signature export of this state;

22 (9) Postsecondary institution means a postsecondary institution as
23 defined in section 85-2403 that also meets the requirements of 20 U.S.C.
24 1001, as such section existed on January 1, 2018;

25 (10) Seed research means research conducted to develop or recreate
26 better strains of industrial hemp, particularly for the purpose of seed
27 production. In conducting this research, higher tetrahydrocannabinol
28 concentration varieties of industrial hemp may be grown to provide
29 breeding strains to revitalize the production of a Nebraska strain of
30 industrial hemp, except in no case shall the tetrahydrocannabinol levels
31 exceed three-tenths of one percent; and

1 (11) Tetrahydrocannabinol means the natural or synthetic equivalents
2 of the substances contained in the plant, or in the resinous extractives
3 of, cannabis, or any synthetic substances, compounds, salts, or
4 derivatives of the plant or chemicals and their isomers with similar
5 chemical structure and pharmacological activity.

6 Sec. 4. The department shall adopt and promulgate rules and
7 regulations as necessary to carry out the purposes of the Industrial Hemp
8 Act, including, but not limited to, administering the industrial hemp
9 research program and licensing persons to grow and process industrial
10 hemp. The department shall include as part of its administrative
11 regulations, at a minimum, the establishment of testing criteria and
12 protocols for industrial hemp.

13 Sec. 5. (1) The department shall promote the research and
14 development of industrial hemp and commercial markets for Nebraska
15 industrial hemp and hemp products as provided in this section, to the
16 extent that adequate funds are available and are approved by the director
17 for these purposes from the Industrial Hemp Program Fund. The department
18 shall work cooperatively with selected Nebraska postsecondary institution
19 agricultural research programs utilizing the expertise of such
20 postsecondary institutions in the area of agricultural research.

21 (2) In addition to its other duties, the department shall undertake
22 research of industrial hemp production through the establishment and
23 oversight of a five-year industrial hemp research program, to be managed
24 by the College of Agricultural Sciences and Natural Resources at the
25 University of Nebraska to the extent that adequate funds are available
26 for the program from the Industrial Hemp Program Fund. This research
27 program shall consist primarily of demonstration plots planted and
28 cultivated in this state by selected growers, which shall be required to
29 be licensed by the department pursuant to section 9 of this act prior to
30 planting any industrial hemp.

31 (3) The department shall pursue any permits or waivers from the

1 United States Drug Enforcement Agency or other appropriate federal agency
2 that are necessary for the advancement of the industrial hemp research
3 program.

4 (4) As part of the industrial hemp research program, the department
5 shall, through the College of Agricultural Sciences and Natural Resources
6 at the University of Nebraska, to the greatest extent possible according
7 to the particular area of research expertise of such college and other
8 research partners:

9 (a) Oversee and analyze the growth of industrial hemp by selected
10 and licensed growers for agronomy research and analysis of required
11 soils, growing conditions, and harvest methods relating to the production
12 of various varieties of industrial hemp that may be suitable for various
13 commercial hemp products;

14 (b) Conduct seed research on various types of industrial hemp that
15 are best suited to be grown in Nebraska, including, but not limited to,
16 seed availability, creation of Nebraska hybrid types and in-the-ground
17 variety trials and seed production, and establish a program to recognize
18 certain industrial hemp seed as being Nebraska heritage hemp seed;

19 (c) Study the economic feasibility of developing an industrial hemp
20 market for various types of industrial hemp that can be grown in
21 Nebraska;

22 (d) Report on the estimated value-added benefits, including
23 environmental benefits, to Nebraska businesses by having an industrial
24 hemp market of Nebraska-grown industrial hemp varieties in Nebraska;

25 (e) Study the agronomy research being conducted worldwide relating
26 to industrial hemp varieties and their production and utilization;

27 (f) Research and promote Nebraska industrial hemp and hemp seed on
28 the world market that can be grown on farms in Nebraska; and

29 (g) Study the feasibility of attracting federal and private funding
30 for the Nebraska industrial hemp research program.

31 (5) In addition to the research and analysis outlined in subsection

1 (4) of this section, the department shall:

2 (a) Coordinate with the University of Nebraska to study the possible
3 uses of industrial hemp as related to any research being conducted; and

4 (b) Coordinate with the Department of Economic Development to
5 promote awareness of the financial incentives that may be available to
6 agribusiness and manufacturing companies that manufacture industrial hemp
7 into hemp products in order to diversify the agricultural economy of
8 Nebraska, attract new businesses to the state, create new job
9 opportunities for Nebraska residents, and create a commercial market for
10 industrial hemp.

11 (6) The research activities outlined in this section shall not:

12 (a) Subject the industrial hemp research program or the University
13 of Nebraska and its research partners to any criminal liability under the
14 controlled substances laws of Nebraska. This exemption from criminal
15 liability is a limited exemption that shall be strictly construed and
16 that shall not apply to any activities of the industrial hemp research
17 program that are not expressly permitted under the Industrial Hemp Act;
18 or

19 (b) Alter, amend, or repeal by implication any provision of Nebraska
20 law relating to controlled substances.

21 (7) The department shall notify the Nebraska State Patrol and all
22 local law enforcement agencies of the duration, size, and location of all
23 industrial hemp demonstration plots.

24 (8) The department may cooperatively seek funds from both public and
25 private sources to implement the industrial hemp research program. Such
26 funds shall be remitted to the State Treasurer for credit to the
27 Industrial Hemp Program Fund.

28 (9) By December 31, 2018, and annually each December 1 thereafter,
29 the director shall report on the status and progress of the industrial
30 hemp research program to the Governor and to the Legislature. The report
31 to the Legislature shall be submitted electronically.

1 Sec. 6. In conformance with the reporting deadline described in
2 subsection (9) of section 5 of this act, the director shall report to the
3 Governor and to the Legislature with respect to industrial hemp policies
4 and practices that will result in the proper and legal growing,
5 management, use, production, and marketing of industrial hemp. The report
6 to the Legislature shall be submitted electronically. These policies and
7 practices shall, at a minimum, address the following:

8 (1) Federal laws and regulatory constraints;

9 (2) The economic and financial feasibility of an industrial hemp
10 market in Nebraska;

11 (3) Nebraska businesses that utilize industrial hemp;

12 (4) Examination of research on industrial hemp production and
13 utilization;

14 (5) The potential for globally marketing Nebraska industrial hemp;

15 (6) A feasibility study of private funding for the Nebraska
16 industrial hemp research program;

17 (7) Law enforcement concerns;

18 (8) Statutory and regulatory schemes for growing of industrial hemp
19 by private producers; and

20 (9) Technical support and education about industrial hemp.

21 Sec. 7. (1) Nothing in the Industrial Hemp Act shall be construed
22 to authorize any person to violate any federal rules or regulations.

23 (2) If any part of the Industrial Hemp Act conflicts with a
24 provision of federal law relating to industrial hemp, the federal
25 provision shall control to the extent of the conflict.

26 Sec. 8. (1) The Industrial Hemp Program Fund is created. The fund
27 shall be administered by the department for the purpose of funding the
28 costs of the industrial hemp research program, as approved by the
29 director.

30 (2) The fund shall consist of money appropriated by the Legislature
31 and any money received as gifts, grants, or funds from any source,

1 including federal, state, public, and private sources. All license
2 application fees and license fees collected by the department shall be
3 remitted to the State Treasurer for credit to the fund.

4 (3) Any money in the fund available for investment shall be invested
5 by the state investment officer pursuant to the Nebraska Capital
6 Expansion Act and the Nebraska State Funds Investment Act.

7 Sec. 9. (1) The department shall establish a licensing program to
8 allow a person to grow or process industrial hemp in Nebraska as provided
9 in this section. The program shall provide the following three separate
10 forms of licenses:

11 (a) An industrial hemp research program grower license to allow a
12 person to grow industrial hemp in this state in a controlled fashion
13 solely and exclusively as part of the industrial hemp research program
14 overseen by the department. This license shall only be allowed subject to
15 a grant of necessary permissions, waivers, or other form of valid legal
16 status by the United States Drug Enforcement Agency or other appropriate
17 federal agency pursuant to applicable federal laws relating to industrial
18 hemp;

19 (b) An industrial hemp grower license to allow a person to grow
20 industrial hemp in this state for any purpose. This license shall be
21 subject to the authorization of legal industrial hemp growth and
22 production in the United States under applicable federal laws relating to
23 industrial hemp; and

24 (c) An industrial hemp processor license to allow a person to
25 process industrial hemp in this state for the purpose of selling hemp
26 products manufactured or made from industrial hemp. This license shall be
27 subject to the authorization of legal industrial hemp growth and
28 production in the United States under applicable federal laws relating to
29 industrial hemp.

30 (2) Any person seeking to grow or process industrial hemp, whether
31 as part of the industrial hemp research program or otherwise, shall apply

1 to the department for the appropriate license on a form provided by the
2 department. At a minimum, the application shall include:

3 (a) The name and mailing address of the applicant;

4 (b) For an industrial hemp grower license applicant, the legal
5 description and global positioning coordinates sufficient for locating
6 the production fields to be used to grow industrial hemp. A license shall
7 authorize industrial hemp propagation only on the land areas specified in
8 the license;

9 (c) For an industrial hemp grower license applicant, written consent
10 allowing the Nebraska State Patrol, if a license is ultimately issued to
11 the applicant, to enter onto the premises on which the industrial hemp is
12 grown to conduct physical inspections of industrial hemp planted and
13 grown by the applicant, and to ensure compliance with the requirements of
14 the Industrial Hemp Act. No more than two physical inspections shall be
15 conducted under this subdivision per year, unless a valid search warrant
16 for an inspection has been issued by a court of competent jurisdiction.
17 All testing for tetrahydrocannabinol levels shall be performed as
18 provided in the Industrial Hemp Act;

19 (d) Any other information required by the department; and

20 (e) The payment of a nonrefundable application fee in an amount set
21 by the department and used to offset the costs associated with
22 administering the licensing program.

23 (3) The department shall require a state or national criminal
24 history background check by the Nebraska State Patrol on all persons
25 applying for a license under this section. The Nebraska State Patrol may
26 charge a fee, as established by the department, to be paid by the
27 applicant for the actual cost of processing the background check. The
28 patrol shall send a copy of the results of the background check to the
29 department.

30 (4) All license applications shall be processed as follows:

31 (a) Upon receipt of a license application, the department shall

1 forward a copy of the application to the Nebraska State Patrol;

2 (b) The patrol shall:

3 (i) Conduct a visual verification of the industrial hemp grower
4 location as described on the application to verify compliance;

5 (ii) Approve the application if it is determined that all
6 requirements have been met; and

7 (iii) Return all applications to the department together with its
8 findings; and

9 (c) The department shall review all license applications returned
10 from the patrol. If the department determines that all requirements have
11 been met and that a license should be granted to the applicant, the
12 director shall approve the application for issuance of a license.

13 (5) A license approved under subsection (4) of this section shall be
14 issued to the licensee upon payment of an initial licensing fee in an
15 amount set by the department and used to offset the costs associated with
16 administering the licensing program.

17 (6) For industrial hemp research program grower licenses, the
18 provisions of subsection (4) of this section shall apply, except that the
19 director may approve licenses for only those selected growers whose
20 demonstration plots will, in the discretion of the director, advance the
21 goals of the industrial hemp research program to the furthest extent
22 possible based on location, soil type, growing conditions, various
23 varieties of industrial hemp that may be suitable for various hemp
24 products, and other relevant factors. The location and the total number
25 and acreage of all demonstration plots to be grown by license holders
26 shall be determined by the department and approved by the director.

27 (7) The number of acres to be planted under each license shall be
28 established by the department.

29 (8) Each license shall be valid for a period of one year from the
30 date of issuance, and may be renewed in successive years. Each annual
31 renewal shall require the payment of a license renewal fee in an amount

1 set by the department and used to offset the costs associated with
2 administering the licensing program.

3 (9) All application fees and license fees collected by the
4 department under this section shall be remitted to the State Treasurer
5 for credit to the Industrial Hemp Program Fund.

6 (10) A copy or appropriate electronic record of each license issued
7 by the department under this section shall be forwarded immediately to
8 the sheriff of each county where the industrial hemp is licensed to be
9 planted, grown, and harvested.

10 (11) All records, data, and information filed in support of a
11 license application which may be withheld from the public under section
12 84-712.05 shall be subject to inspection only upon the order of a court
13 of competent jurisdiction.

14 (12) The department shall be responsible for monitoring the
15 industrial hemp grown by any license holder, and shall provide for random
16 testing of the industrial hemp for compliance with tetrahydrocannabinol
17 levels and for other appropriate purposes at the cost of the license
18 holder. The department shall establish necessary testing criteria and
19 protocols.

20 Sec. 10. (1) A person shall obtain an industrial hemp grower
21 license pursuant to section 9 of this act prior to planting or growing
22 any industrial hemp in this state. An industrial hemp grower license
23 holder who has planted and grown industrial hemp pursuant to a valid
24 grower license may sell industrial hemp produced by the grower to any
25 person, including a person who holds an industrial hemp processor license
26 pursuant to section 9 of this act, who is engaged in agribusiness or
27 other manufacturing for the purpose of processing or manufacturing such
28 industrial hemp into hemp products.

29 (2) A person who is granted an industrial hemp grower license shall:

30 (a) Maintain records that reflect compliance with the Industrial
31 Hemp Act and with all other state laws regulating the planting and

1 cultivation of industrial hemp;

2 (b) Retain all industrial hemp production records for at least three
3 years;

4 (c) Allow industrial hemp crops, throughout sowing, growing, and
5 harvesting, to be inspected by and at the discretion of the department or
6 its designees and the Nebraska State Patrol and other law enforcement
7 officers;

8 (d) File with the department documentation indicating that the
9 industrial hemp seeds planted were of a type and variety certified to
10 have no more tetrahydrocannabinol concentration than that adopted by
11 federal law in the Controlled Substances Act, 21 U.S.C. 801 et seq.;

12 (e) Notify the department of the sale of any industrial hemp grown
13 under the license and the names and addresses of the persons to whom the
14 industrial hemp was sold; and

15 (f) Provide the department with copies of any contracts between the
16 licensee and any person to whom industrial hemp was sold.

17 (3) The department shall assist the grower with his or her
18 compliance with the requirements of this section.

19 (4) Any person licensed to grow industrial hemp under the Industrial
20 Hemp Act may import and resell industrial hemp seed that has been
21 certified as having no more tetrahydrocannabinol concentration than that
22 adopted by federal law in the Controlled Substances Act, 21 U.S.C. 801 et
23 seq.

24 (5)(a) Only industrial hemp grower licensees or their designees or
25 agents shall be permitted to transport industrial hemp off the premises
26 of the licensee.

27 (b) When transporting industrial hemp off the premises of an
28 industrial hemp grower licensee, the licensee or his or her designee or
29 agent shall carry with him or her the licensing documents from the
30 department, evidencing that the industrial hemp was grown by a licensee
31 and is from certified seed.

1 (c) Any industrial hemp that is found in this state at any location
2 off the premises of an industrial hemp grower licensee is deemed to be
3 contraband and subject to seizure by the department, the Nebraska State
4 Patrol, or any law enforcement officer, if the person in possession of
5 the industrial hemp does not have in his or her possession either:

6 (i) The proper licensing documents, as required by subdivision (5)
7 (b) of this subsection; or

8 (ii) A bill of lading or other proper documentation demonstrating
9 that the industrial hemp was legally imported or is otherwise legally
10 present in this state under applicable state and federal laws relating to
11 industrial hemp.

12 (d) Any industrial hemp seized pursuant to subdivision (5)(c) of
13 this subsection shall be destroyed.

14 Sec. 11. (1) An industrial hemp grower licensee or industrial hemp
15 processor licensee who does not comply with the requirements of the
16 Industrial Hemp Act or the rules and regulations adopted and promulgated
17 pursuant to the act shall have his or her license revoked and shall
18 forfeit the right to grow or process industrial hemp in this state for a
19 period of up to three years as provided in this section.

20 (2) A license revocation or forfeiture shall occur pursuant to this
21 section only after the licensee has had an opportunity, upon due notice,
22 for a hearing before the department to show cause why the license should
23 not be revoked and the licensee's right to grow or process hemp
24 forfeited.

25 (3) The director may revoke any license of a person who has pleaded
26 guilty to, or been convicted of, a felony.

27 (4) If a license is revoked and a licensee's right to grow or
28 process hemp is forfeited after notice and hearing, the decision may be
29 appealed, and upon appeal an administrative hearing shall be conducted
30 before the department in accordance with the Administrative Procedure
31 Act.

1 (5) The licensee may appeal a final order of the director by filing
2 an appeal in the district court of Lancaster County.

3 Sec. 12. Section 28-401, Revised Statutes Supplement, 2017, is
4 amended to read:

5 28-401 As used in the Uniform Controlled Substances Act, unless the
6 context otherwise requires:

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

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

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

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

23 (5) Counterfeit substance means a controlled substance which, or the
24 container or labeling of which, without authorization, bears the
25 trademark, trade name, or other identifying mark, imprint, number, or
26 device, or any likeness thereof, of a manufacturer, distributor, or
27 dispenser other than the person or persons who in fact manufactured,
28 distributed, or dispensed such substance and which thereby falsely
29 purports or is represented to be the product of, or to have been
30 distributed by, such other manufacturer, distributor, or dispenser;

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

1 (7) Division of Drug Control means the personnel of the Nebraska
2 State Patrol who are assigned to enforce the Uniform Controlled
3 Substances Act;

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

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

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

12 (11) Drug means (a) articles recognized in the official United
13 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United
14 States, official National Formulary, or any supplement to any of them,
15 (b) substances intended for use in the diagnosis, cure, mitigation,
16 treatment, or prevention of disease in human beings or animals, and (c)
17 substances intended for use as a component of any article specified in
18 subdivision (a) or (b) of this subdivision, but does not include devices
19 or their components, parts, or accessories;

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

23 (13) Marijuana means all parts of the plant of the genus cannabis,
24 whether growing or not, the seeds thereof, and every compound,
25 manufacture, salt, derivative, mixture, or preparation of such plant or
26 its seeds, but does not include the mature stalks of such plant, hashish,
27 tetrahydrocannabinols extracted or isolated from the plant, fiber
28 produced from such stalks, oil or cake made from the seeds of such plant,
29 any other compound, manufacture, salt, derivative, mixture, or
30 preparation of such mature stalks, the sterilized seed of such plant
31 which is incapable of germination, or cannabidiol contained in a drug

1 product approved by the federal Food and Drug Administration or obtained
2 pursuant to sections 28-463 to 28-468. When the weight of marijuana is
3 referred to in the Uniform Controlled Substances Act, it means its weight
4 at or about the time it is seized or otherwise comes into the possession
5 of law enforcement authorities, whether cured or uncured at that time.
6 When industrial hemp as defined in section 3 of this act ~~2-5701~~ is in the
7 possession of a person as authorized under the Industrial Hemp Act
8 ~~section 2-5701~~, it is not considered marijuana for purposes of the
9 Uniform Controlled Substances Act;

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

27 (15) Narcotic drug means any of the following, whether produced
28 directly or indirectly by extraction from substances of vegetable origin,
29 independently by means of chemical synthesis, or by a combination of
30 extraction and chemical synthesis: (a) Opium, opium poppy and poppy
31 straw, coca leaves, and opiates; (b) a compound, manufacture, salt,

1 derivative, or preparation of opium, coca leaves, or opiates; or (c) a
2 substance and any compound, manufacture, salt, derivative, or preparation
3 thereof which is chemically equivalent to or identical with any of the
4 substances referred to in subdivisions (a) and (b) of this subdivision,
5 except that the words narcotic drug as used in the Uniform Controlled
6 Substances Act does not include decocainized coca leaves or extracts of
7 coca leaves, which extracts do not contain cocaine or ecgonine, or
8 isoquinoline alkaloids of opium;

9 (16) Opiate means any substance having an addiction-forming or
10 addiction-sustaining liability similar to morphine or being capable of
11 conversion into a drug having such addiction-forming or addiction-
12 sustaining liability. Opiate does not include the dextrorotatory isomer
13 of 3-methoxy-n methylmorphinan and its salts. Opiate includes its racemic
14 and levorotatory forms;

15 (17) Opium poppy means the plant of the species *Papaver somniferum*
16 L., except the seeds thereof;

17 (18) Poppy straw means all parts, except the seeds, of the opium
18 poppy after mowing;

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

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

30 (21) Production includes the manufacture, planting, cultivation, or
31 harvesting of a controlled substance;

1 (22) Immediate precursor means a substance which is the principal
2 compound commonly used or produced primarily for use and which is an
3 immediate chemical intermediary used or likely to be used in the
4 manufacture of a controlled substance, the control of which is necessary
5 to prevent, curtail, or limit such manufacture;

6 (23) State means the State of Nebraska;

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

11 (25) Hospital has the same meaning as in section 71-419;

12 (26) Cooperating individual means any person, other than a
13 commissioned law enforcement officer, who acts on behalf of, at the
14 request of, or as agent for a law enforcement agency for the purpose of
15 gathering or obtaining evidence of offenses punishable under the Uniform
16 Controlled Substances Act;

17 (27) Hashish or concentrated cannabis means (a) the separated resin,
18 whether crude or purified, obtained from a plant of the genus cannabis or
19 (b) any material, preparation, mixture, compound, or other substance
20 which contains ten percent or more by weight of tetrahydrocannabinols.
21 When resins extracted from industrial hemp as defined in section 3 of
22 this act 2-5701 are in the possession of a person as authorized under the
23 Industrial Hemp Act section 2-5701, they are not considered hashish or
24 concentrated cannabis for purposes of the Uniform Controlled Substances
25 Act;

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

30 (29) Imitation controlled substance means a substance which is not a
31 controlled substance or controlled substance analogue but which, by way

1 of express or implied representations and consideration of other relevant
2 factors including those specified in section 28-445, would lead a
3 reasonable person to believe the substance is a controlled substance or
4 controlled substance analogue. A placebo or registered investigational
5 drug manufactured, distributed, possessed, or delivered in the ordinary
6 course of practice or research by a health care professional shall not be
7 deemed to be an imitation controlled substance;

8 (30)(a) Controlled substance analogue means a substance (i) the
9 chemical structure of which is substantially similar to the chemical
10 structure of a Schedule I or Schedule II controlled substance as provided
11 in section 28-405 or (ii) which has a stimulant, depressant, analgesic,
12 or hallucinogenic effect on the central nervous system that is
13 substantially similar to or greater than the stimulant, depressant,
14 analgesic, or hallucinogenic effect on the central nervous system of a
15 Schedule I or Schedule II controlled substance as provided in section
16 28-405. A controlled substance analogue shall, to the extent intended for
17 human consumption, be treated as a controlled substance under Schedule I
18 of section 28-405 for purposes of the Uniform Controlled Substances Act;
19 and

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

30 (31) Anabolic steroid means any drug or hormonal substance,
31 chemically and pharmacologically related to testosterone (other than

1 estrogens, progestins, and corticosteroids), that promotes muscle growth
2 and includes any controlled substance in Schedule III(d) of section
3 28-405. Anabolic steroid does not include any anabolic steroid which is
4 expressly intended for administration through implants to cattle or other
5 nonhuman species and has been approved by the Secretary of Health and
6 Human Services for such administration, but if any person prescribes,
7 dispenses, or distributes such a steroid for human use, such person shall
8 be considered to have prescribed, dispensed, or distributed an anabolic
9 steroid within the meaning of this subdivision;

10 (32) Chart order means an order for a controlled substance issued by
11 a practitioner for a patient who is in the hospital where the chart is
12 stored or for a patient receiving detoxification treatment or maintenance
13 treatment pursuant to section 28-412. Chart order does not include a
14 prescription;

15 (33) Medical order means a prescription, a chart order, or an order
16 for pharmaceutical care issued by a practitioner;

17 (34) Prescription means an order for a controlled substance issued
18 by a practitioner. Prescription does not include a chart order;

19 (35) Registrant means any person who has a controlled substances
20 registration issued by the state or the Drug Enforcement Administration
21 of the United States Department of Justice;

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

26 (37) Signature means the name, word, or mark of a person written in
27 his or her own hand with the intent to authenticate a writing or other
28 form of communication or a digital signature which complies with section
29 86-611 or an electronic signature;

30 (38) Facsimile means a copy generated by a system that encodes a
31 document or photograph into electrical signals, transmits those signals

1 over telecommunications lines, and reconstructs the signals to create an
2 exact duplicate of the original document at the receiving end;

3 (39) Electronic signature has the definition found in section
4 86-621;

5 (40) Electronic transmission means transmission of information in
6 electronic form. Electronic transmission includes computer-to-computer
7 transmission or computer-to-facsimile transmission;

8 (41) Long-term care facility means an intermediate care facility, an
9 intermediate care facility for persons with developmental disabilities, a
10 long-term care hospital, a mental health center, a nursing facility, or a
11 skilled nursing facility, as such terms are defined in the Health Care
12 Facility Licensure Act;

13 (42) Compounding has the same meaning as in section 38-2811;

14 (43) Cannabinoid receptor agonist shall mean any chemical compound
15 or substance that, according to scientific or medical research, study,
16 testing, or analysis, demonstrates the presence of binding activity at
17 one or more of the CB1 or CB2 cell membrane receptors located within the
18 human body; and

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

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

30 (b) The name or packaging of the product or substance uses images or
31 labels suggesting that it is a controlled substance or produces effects

1 on the human body that replicate or mimic those produced by a controlled
2 substance;

3 (c) The product or substance is marketed or advertised for a
4 particular use or purpose and the cost of the product or substance is
5 disproportionately higher than other products or substances marketed or
6 advertised for the same or similar use or purpose;

7 (d) The packaging or label on the product or substance contains
8 words or markings that state or suggest that the product or substance is
9 in compliance with state and federal laws regulating controlled
10 substances;

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

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

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

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

30 Sec. 13. This act becomes operative on January 1, 2019.

31 Sec. 14. Original section 28-401, Revised Statutes Supplement,

1 2017, is repealed.

2 Sec. 15. The following section is outright repealed: Section

3 2-5701, Revised Statutes Cumulative Supplement, 2016.