

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 617

Introduced by Wayne, 13.

Read first time January 18, 2017

Committee: Agriculture

- 1 A BILL FOR AN ACT relating to agricultural promotion; to amend section
- 2 28-401, Reissue Revised Statutes of Nebraska, and section 2-5701,
- 3 Revised Statutes Cumulative Supplement, 2016; to adopt the
- 4 Industrial Hemp Act; to provide an exemption as prescribed; to
- 5 provide an operative date; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 14 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 the
4 State of Nebraska in moving to the forefront of industrial hemp
5 production, development, and commercialization of hemp products in
6 agribusiness, alternative fuel production, and other business sectors,
7 both nationally and globally and to the greatest extent possible. These
8 purposes shall be accomplished, in part, through:

9 (a) The creation of the Industrial Hemp Commission;

10 (b) The industrial hemp research program overseen by the commission,
11 working in conjunction with the staff of selected Nebraska postsecondary
12 institution agricultural research programs, along with other research
13 partners. This research program shall include the planting, cultivation,
14 and analysis of industrial hemp demonstration plots by selected growers
15 that are licensed by the commission; and

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

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

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

24 (1) Certified seed means industrial hemp seed, including, but not
25 limited to, Nebraska heritage hemp seed, that has been certified as
26 having no more tetrahydrocannabinol concentration than that adopted by
27 federal law in the Controlled Substances Act, 21 U.S.C. 801 et seq.;

28 (2) Commission means the Industrial Hemp Commission;

29 (3) Grower means any person licensed to grow industrial hemp by the
30 commission;

31 (4) Hemp products means all products made from industrial hemp,

1 including, but not limited to, cloth, cordage, fiber, food, fuel, paint,
2 paper, particleboard, plastics, seed, seed meal and seed oil for
3 consumption, and certified seed for cultivation if the seeds originate
4 from industrial hemp varieties;

5 (5) Industrial hemp means all parts and varieties of the plant
6 Cannabis sativa, cultivated or possessed by a licensed grower, whether
7 growing or not, that contain a tetrahydrocannabinol concentration of no
8 more than that adopted by federal law in the Controlled Substances Act,
9 21 U.S.C. 801 et seq. Industrial hemp as defined in the Industrial Hemp
10 Act is excluded from the definition of marijuana in section 28-401;

11 (6) Nebraska heritage hemp seed means industrial hemp seed that
12 possesses characteristics of the unique and specialized industrial hemp
13 seed variety that originated in Nebraska and has been recognized
14 historically as a signature export of this state;

15 (7) Seed research means research conducted to develop or recreate
16 better strains of industrial hemp, particularly for the purposes of seed
17 production. In conducting this research, higher tetrahydrocannabinol
18 concentration varieties of industrial hemp may be grown to provide
19 breeding strains to revitalize the production of a Nebraska strain of
20 industrial hemp. However, in no case shall the tetrahydrocannabinol
21 levels exceed three-tenths of one percent; and

22 (8) Tetrahydrocannabinol means the natural or synthetic equivalents
23 of the substances contained in the plant, or in the resinous extractives
24 of, cannabis, or any synthetic substances, compounds, salts, or
25 derivatives of the plant or chemicals and their isomers with similar
26 chemical structure and pharmacological activity.

27 Sec. 4. The commission shall adopt and promulgate rules and
28 regulations necessary to carry out the purposes of the Industrial Hemp
29 Act, and to license persons to grow industrial hemp. The commission shall
30 include as part of its administrative regulations, at a minimum, the
31 establishment of industrial hemp testing criteria and protocols.

1 Sec. 5. (1) The commission shall promote the research and
2 development of industrial hemp and commercial markets for Nebraska
3 industrial hemp and hemp products as provided in this section, to the
4 extent that adequate funds are available and are approved by the
5 commission for these purposes from the Industrial Hemp Program Fund. The
6 commission shall work cooperatively with selected Nebraska postsecondary
7 institution agricultural research programs utilizing the expertise of
8 Nebraska postsecondary institutions in the area of agricultural research.

9 (2) In addition to its other duties, the commission shall undertake
10 research of industrial hemp production through the establishment and
11 oversight of a five-year industrial hemp research program to the extent
12 that adequate funds are available for the program from the Industrial
13 Hemp Program Fund. This research program shall consist primarily of
14 demonstration plots planted and cultivated in this state by selected
15 growers, which shall be required to be licensed by the commission prior
16 to planting any industrial hemp.

17 (3) The commission shall pursue any permits or waivers from the
18 United States Drug Enforcement Administration or appropriate federal
19 agency that are necessary for the advancement of the industrial hemp
20 research program.

21 (4) As part of the industrial hemp research program the commission
22 shall, to the greatest extent possible according to the particular area
23 of research expertise of each collaborating university, and other
24 research partners:

25 (a) Oversee and analyze the growth of industrial hemp by selected
26 and licensed growers for agronomy research and analysis of required
27 soils, growing conditions, and harvest methods relating to the production
28 of various varieties of industrial hemp that may be suitable for various
29 commercial hemp products;

30 (b) Conduct seed research on various types of industrial hemp that
31 are best suited to be grown in Nebraska, including, but not limited to,

1 seed availability, creation of Nebraska hybrid types, in-the-ground
2 variety trials and seed production;

3 (c) Establish a program to recognize certain industrial hemp seed as
4 being Nebraska heritage hemp seed;

5 (d) Study the economic feasibility of developing an industrial hemp
6 market in various types of industrial hemp that can be grown in this
7 state;

8 (e) Report on the estimated value-added benefits, including
9 environmental benefits, that would benefit Nebraska businesses by having
10 an industrial hemp market of industrial hemp varieties grown in this
11 state;

12 (f) Study the agronomy research being conducted worldwide relating
13 to industrial hemp varieties, production, and utilization;

14 (g) Research and promote Nebraska industrial hemp and Nebraska
15 Heritage hemp seed on the world market that can be grown on farms in the
16 state; and

17 (h) Study the feasibility of attracting federal and private funding
18 for the Nebraska industrial hemp research program.

19 (5) In addition to the research and analysis outlined in subsection
20 (4) of this section, the commission shall:

21 (a) Study the use of industrial hemp in new energy technologies.
22 This research shall include, but not be limited to:

23 (i) Evaluation of the use of industrial hemp to generate electricity
24 and to produce biofuels and other forms of energy resources;

25 (ii) The growth of industrial hemp on reclaimed mine sites;

26 (iii) The use of hemp seed oil in the production of fuels; and

27 (iv) An assessment of the production costs, environmental issues,
28 and costs and benefits involved with the use of industrial hemp for
29 energy; and

30 (b) Coordinate with the Department of Economic Development to
31 promote awareness of the financial incentives that may be available to

1 agribusiness and manufacturing companies that manufacture industrial hemp
2 into hemp products in order to diversify the agricultural economy of the
3 state, attract new businesses to the state, create new job opportunities
4 for Nebraska residents, and create a commercial market for industrial
5 hemp.

6 (6) The research activities outlined in subsections (4) and (5) of
7 this section shall not alter, amend, or repeal by implication any
8 provision of Nebraska law relating to controlled substances.

9 (7) The commission shall notify the Nebraska State Patrol and all
10 local law enforcement agencies of the duration, size, and location of all
11 industrial hemp demonstration plots.

12 (8) The commission may cooperatively seek funds from both public and
13 private sources to implement the industrial hemp research program. The
14 funds shall be deposited into the Industrial Hemp Program Fund.

15 (9) By December 31, 2018, and annually by each December 31
16 thereafter, the commission shall report on the status and progress of the
17 industrial hemp research program to the Governor and to the Legislature.
18 The report to the Legislature shall be submitted electronically.

19 Sec. 6. (1) The commission shall establish the industrial hemp
20 research program to license persons to grow industrial hemp in this
21 state. The program shall include the following two separate forms of
22 license:

23 (a) An industrial hemp research program grower license to allow a
24 person to grow industrial hemp in this state in a controlled fashion
25 solely and exclusively as part of the industrial hemp research program
26 overseen by the commission. This license shall only be allowed subject to
27 a grant of necessary permissions, waivers, or other form of valid legal
28 status by the United States Drug Enforcement Agency or other appropriate
29 federal agency pursuant to applicable federal laws relating to industrial
30 hemp; and

31 (b) An industrial hemp grower license to allow a person to grow

1 industrial hemp in this state for any purpose. This license shall only be
2 allowed subject to the authorization of legal industrial hemp growth and
3 production in the United States under applicable federal laws relating to
4 industrial hemp.

5 (2) Any person seeking to grow industrial hemp, whether as part of
6 the industrial hemp research program or otherwise, shall apply to the
7 commission for the appropriate license on a form provided by the
8 commission. At a minimum, the application shall include:

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

10 (b) The legal description and global positioning coordinates
11 sufficient for locating the production fields to be used to grow
12 industrial hemp. A license shall authorize industrial hemp propagation
13 only on the land areas specified in the license;

14 (c) A signed statement indicating whether the applicant has ever
15 been convicted of a felony or misdemeanor. A person with a felony drug
16 conviction within ten years prior to applying for a license under this
17 section shall not be eligible for a license;

18 (d) Written consent allowing the Nebraska State Patrol, if a license
19 is ultimately issued to the applicant, to enter onto the premises on
20 which the industrial hemp is grown to conduct physical inspections of
21 industrial hemp planted and grown by the applicant, and to ensure
22 compliance with the requirements of the Industrial Hemp Act. No more than
23 two physical inspections shall be conducted under this subdivision per
24 year, unless a valid search warrant for an inspection has been issued by
25 a court. All testing for tetrahydrocannabinol levels shall be performed
26 as provided in subsection (11) of this section;

27 (e) Any other information required by the commission; and

28 (f) The payment of a nonrefundable application fee, in an amount set
29 by the commission not to exceed the costs associated with administering
30 the industrial hemp research program.

31 (3) The commission shall require a state or national criminal

1 history record information check by the Nebraska State Patrol on all
2 persons applying for a license. The Nebraska State Patrol may charge a
3 fee, as established by the commission, to be paid by the applicant for
4 the actual cost of processing the check. A copy of the results of the
5 check shall be sent to the commission.

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

7 (a) Upon receipt of a license application, the commission shall
8 forward a copy of the application to the Nebraska State Patrol which
9 shall:

10 (i) Perform the required state or national criminal history record
11 information check of the applicant;

12 (ii) Approve the application, if it is determined that the
13 requirements relating to prior criminal convictions have been met; and

14 (iii) Return all applications to the commission together with its
15 findings and a copy of the state or national criminal history record
16 information check; and

17 (b) The commission shall review all license applications returned
18 from the Nebraska State Patrol. If the commission determines that all
19 requirements have been met and that a license should be granted to the
20 applicant, taking into consideration any prior convictions of the
21 applicant, the commission shall approve the application for issuance of a
22 license.

23 (5) In the case of an industrial hemp research program grower
24 license, subsection (4) of this section shall apply, except that the
25 commission may approve licenses for only those selected growers whose
26 demonstration plots will, in the discretion of the commission, advance
27 the goals of the industrial hemp research program to the furthest extent
28 possible based on location, soil type, growing conditions, various
29 varieties of industrial hemp that may be suitable for various hemp
30 products, and other relevant factors. The location and the total number
31 and acreage of all demonstration plots to be grown by licenseholders

1 shall be determined at the discretion of the commission.

2 (6) The number of acres to be planted under each license shall be
3 established by the commission.

4 (7) Each license shall be valid for a period of one year from the
5 date of issuance, and may be renewed in successive years. Each annual
6 renewal shall require the payment of a license renewal fee.

7 (8) The commission shall establish the fee amounts required for
8 license applications and license renewals pursuant to this section,
9 except that such fees shall not exceed the costs associated with
10 administration of the program. All application and license renewal fees
11 collected by the commission shall be deposited in the Industrial Hemp
12 Program Fund.

13 (9) A copy or appropriate electronic record of each license issued
14 by the commission shall be forwarded immediately to the sheriff of each
15 county where the industrial hemp is to be planted, grown, and harvested.

16 (10) All records, data, and information filed in support of a
17 license application shall be considered proprietary and subject to
18 inspection only upon the order of a court of competent jurisdiction.

19 (11) The commission shall be responsible for monitoring the
20 industrial hemp grown by any license holder and shall provide for random
21 testing of the industrial hemp for compliance with tetrahydrocannabinol
22 levels and for other appropriate purposes at the cost of the license
23 holder. The commission shall establish necessary testing criteria and
24 protocols.

25 Sec. 7. (1) A person shall obtain an industrial hemp grower license
26 pursuant to section 6 of this act prior to planting or growing any
27 industrial hemp in this state. An industrial hemp grower licenseholder
28 who has planted and grown industrial hemp pursuant to a valid license may
29 sell industrial hemp produced by the licensed grower to any person
30 engaged in agribusiness or other manufacturing for the purpose of
31 processing or manufacturing that industrial hemp into hemp products.

1 (2) A person granted an industrial hemp grower license shall:

2 (a) Maintain records that reflect compliance with the Industrial
3 Hemp Act, and with all other state laws regulating the planting and
4 cultivation of industrial hemp;

5 (b) Retain all industrial hemp production records for at least three
6 years;

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

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

15 (e) Notify the commission of the sale of any industrial hemp grown
16 under the license and the names and addresses of the persons to whom the
17 industrial hemp was sold; and

18 (f) Provide the commission with copies of any contracts between the
19 licensee and any person to whom industrial hemp was sold.

20 (3) The commission shall assist the licensed grower with his or her
21 compliance with the requirements of this section.

22 (4) An industrial hemp grower licensee may import and resell
23 industrial hemp seed that has been certified as having no more
24 tetrahydrocannabinol concentration than that adopted by federal law in
25 the Controlled Substances Act, 21 U.S.C. 801 et seq.

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

29 (b) When transporting industrial hemp off the premises of an
30 industrial hemp grower licensee, the licensee or a designee or agent
31 shall carry with him or her the licensing documents from the commission,

1 evidencing that the industrial hemp was grown by a licensee and is from
2 certified seed.

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

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

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

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

16 Sec. 8. (1) A licensee under the Industrial Hemp Act who does not
17 comply with the requirements of the act or the rules and regulations
18 adopted and promulgated pursuant to the act shall have his or her license
19 revoked and shall forfeit the right to grow industrial hemp in this state
20 for a period of up to five years as provided in this section.

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

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

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

31 (5) An appeal of a final order of the commission may be filed in the

1 district court of Lancaster County.

2 Sec. 9. (1) The Nebraska Industrial Hemp Commission is created and
3 shall be housed in the Department of Agriculture for administrative
4 purposes.

5 (2) The membership of the commission shall consist of the following
6 members:

7 (a) The Director of Agriculture or his or her designee;

8 (b) The Superintendent of Law Enforcement and Public Safety or his
9 or her designee;

10 (c) The Director of Economic Development or his or her designee;

11 (d) The dean of the University of Nebraska College of Agricultural
12 Sciences and Natural Resources or his or her designee;

13 (e) One member representing each postsecondary institution of the
14 state choosing to participate in the commission;

15 (f) The president of the Nebraska County Sheriffs' Association or
16 his or her designee; and

17 (g) Six members appointed by the Governor representing the following
18 interests:

19 (A) A Nebraska farmer with an interest in growing industrial hemp;

20 (B) A retailer of industrial hemp products;

21 (C) A wholesaler of industrial hemp products; and

22 (D) A manufacturer of industrial hemp products.

23 (3) Members appointed pursuant to subdivision (2)(g) of this section
24 shall serve a term of four years and may be reappointed.

25 Sec. 10. (1) A majority of the members of the commission shall
26 constitute a quorum.

27 (2) The Director of Agriculture shall serve as vice-chairperson and
28 the commission shall annually elect one member from among the remaining
29 members to serve as chairperson.

30 Sec. 11. (1) The commission shall meet quarterly and may meet more
31 often upon the call of the chairperson or by request of a majority of the

1 members.

2 (2) The commission shall be appointed and conduct its first meeting
3 no later than July 1, 2018.

4 (3) Members of the commission shall receive travel expenses and
5 actual expenses for food and lodging while attending meetings of the
6 commission as provided in sections 81-1174 to 81-1177 for state
7 employees.

8 (4) Administrative support services shall be provided to the
9 commission by the Department of Agriculture at the request of the
10 commission, including, but not limited to, services relating to:

11 (a) Testing of industrial hemp;

12 (b) The processing of documents relating to the license program;

13 (c) Financial accounting, recordkeeping, and other budgetary
14 functions; and

15 (d) Meeting coordination and staffing.

16 (5) Administrative expenses of the commission, including, but not
17 limited to, expenses for the services outlined in subsection (4) of this
18 section shall be paid from the Industrial Hemp Program Fund as approved
19 by the commission.

20 Sec. 12. In addition to the report required in subsection (9) of
21 section 5 of this act, the commission shall periodically report to the
22 Governor and to the Legislature on industrial hemp policies and practices
23 that will result in the proper legal growing, management, use, and
24 marketing of the state's potential industrial hemp industry. These
25 policies and practices shall, at a minimum, address the following:

26 (1) Federal laws and regulatory constraints;

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

29 (3) Nebraska businesses that utilize industrial hemp;

30 (4) Examination of research on industrial hemp production and
31 utilization;

- 1 (5) The potential for globally marketing Nebraska industrial hemp;
- 2 (6) Feasibility study of private funding for the Nebraska industrial
- 3 hemp research program;
- 4 (7) Law enforcement concerns;
- 5 (8) Statutory and regulatory schemes for growing of industrial hemp
- 6 by private producers; and
- 7 (9) Technical support and education about industrial hemp.

8 Sec. 13. (1) This state shall adopt any federal rules and
9 regulations that are enacted regarding industrial hemp and any subsequent
10 amendments thereto.

11 (2) Nothing in the Industrial Hemp Act shall be construed to
12 authorize any person to violate any federal rules or regulations.

13 (3) If any part of the Industrial Hemp Act conflicts with a
14 provision of federal law relating to industrial hemp, the federal
15 provision shall control to the extent of the conflict.

16 Sec. 14. (1) The Industrial Hemp Program Fund is established. The
17 fund shall be administered by the commission for the purpose of covering
18 the costs of the commission and the industrial hemp research program, as
19 approved by the commission.

20 (2) The fund may receive appropriations by the Legislature, gifts,
21 grants, federal funds, and any other funds both public and private, and
22 all license application fees and license renewal fees collected by the
23 commission shall be remitted to the State Treasurer for credit to the
24 fund.

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

28 Sec. 15. Section 2-5701, Revised Statutes Cumulative Supplement,
29 2016, is amended to read:

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

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

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

6 (3) The Department of Agriculture shall adopt and promulgate rules
7 and regulations with respect to the growth or cultivation of industrial
8 hemp and the certification and registration of sites growing or
9 cultivating industrial hemp as authorized under this section.

10 (4) For purposes of this section:

11 (a) Agricultural pilot program means a pilot program to study the
12 growth, cultivation, or marketing of industrial hemp;

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

17 (c) Postsecondary institution means a postsecondary institution as
18 defined in section 85-2403 that also meets the requirements of 20 U.S.C.
19 1001, as such section existed on January 1, 2014.

20 (5) Research activities carried out under the provisions of this
21 section are exempt from the Industrial Hemp Act.

22 Sec. 16. Section 28-401, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 28-401 As used in the Uniform Controlled Substances Act, unless the
25 context otherwise requires:

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

29 (2) Agent means an authorized person who acts on behalf of or at the
30 direction of another person but does not include a common or contract
31 carrier, public warehouse keeper, or employee of a carrier or warehouse

1 keeper;

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

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

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

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

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

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

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

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

31 (11) Drug means (a) articles recognized in the official United

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

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

11 (13) Marijuana means all parts of the plant of the genus cannabis,
12 whether growing or not, the seeds thereof, and every compound,
13 manufacture, salt, derivative, mixture, or preparation of such plant or
14 its seeds, but does not include the mature stalks of such plant, hashish,
15 tetrahydrocannabinols extracted or isolated from the plant, fiber
16 produced from such stalks, oil or cake made from the seeds of such plant,
17 any other compound, manufacture, salt, derivative, mixture, or
18 preparation of such mature stalks, the sterilized seed of such plant
19 which is incapable of germination, or cannabidiol obtained pursuant to
20 sections 28-463 to 28-468. When the weight of marijuana is referred to in
21 the Uniform Controlled Substances Act, it means its weight at or about
22 the time it is seized or otherwise comes into the possession of law
23 enforcement authorities, whether cured or uncured at that time. When
24 industrial hemp as defined in section 2-5701 is in the possession of a
25 person as authorized under section 2-5701, or in the possession of a
26 person licensed under the Industrial Hemp Act, it is not considered
27 marijuana for purposes of the Uniform Controlled Substances Act;

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

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

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

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

1 and levorotatory forms;

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

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

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

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

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

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

24 (23) State means the State of Nebraska;

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

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

30 (26) Cooperating individual means any person, other than a
31 commissioned law enforcement officer, who acts on behalf of, at the

1 request of, or as agent for a law enforcement agency for the purpose of
2 gathering or obtaining evidence of offenses punishable under the Uniform
3 Controlled Substances Act;

4 (27) Hashish or concentrated cannabis means (a) the separated resin,
5 whether crude or purified, obtained from a plant of the genus cannabis or
6 (b) any material, preparation, mixture, compound, or other substance
7 which contains ten percent or more by weight of tetrahydrocannabinols.
8 When resins extracted from industrial hemp as defined in section 2-5701
9 are in the possession of a person as authorized under section 2-5701,
10 they are not considered hashish or concentrated cannabis for purposes of
11 the Uniform Controlled Substances Act;

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

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

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

1 Schedule I or Schedule II controlled substance as provided in section
2 28-405. A controlled substance analogue shall, to the extent intended for
3 human consumption, be treated as a controlled substance under Schedule I
4 of section 28-405 for purposes of the Uniform Controlled Substances Act;
5 and

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

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

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

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

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

5 (35) Registrant means any person who has a controlled substances
6 registration issued by the state or the administration;

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

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

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

19 (39) Electronic signature has the definition found in section
20 86-621;

21 (40) Electronic transmission means transmission of information in
22 electronic form. Electronic transmission includes computer-to-computer
23 transmission or computer-to-facsimile transmission;

24 (41) Long-term care facility means an intermediate care facility, an
25 intermediate care facility for persons with developmental disabilities, a
26 long-term care hospital, a mental health center, a nursing facility, or a
27 skilled nursing facility, as such terms are defined in the Health Care
28 Facility Licensure Act;

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

30 (43) Cannabinoid receptor agonist shall mean any chemical compound
31 or substance that, according to scientific or medical research, study,

1 testing, or analysis, demonstrates the presence of binding activity at
2 one or more of the CB1 or CB2 cell membrane receptors located within the
3 human body; and

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

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

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

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

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

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

30 (f) The owner or person in control of the product or substance makes
31 a verbal or written statement suggesting or implying that the product or

1 substance is a synthetic drug or that consumption of the product or
2 substance will replicate or mimic effects on the human body to those
3 effects commonly produced through use or consumption of a controlled
4 substance;

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

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

15 Sec. 17. This act becomes operative on January 1, 2018.

16 Sec. 18. Original section 28-401, Reissue Revised Statutes of
17 Nebraska, and section 2-5701, Revised Statutes Cumulative Supplement,
18 2016, are repealed.