

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1152

FINAL READING

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 2-503, 2-504,
3 2-505, 2-506, 2-507, 2-510, 2-511, 2-512, 2-514, 2-515, 2-516,
4 2-517, 2-5701, and 28-101, Revised Statutes Supplement, 2019; to
5 change the Nebraska Hemp Farming Act as prescribed; to change
6 provisions relating to the cultivation of industrial hemp; to
7 provide a termination date; to provide requirements for the
8 transportation of hemp; to provide a penalty; to harmonize
9 provisions; to provide operative dates; to repeal the original
10 sections; and to declare an emergency.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-503, Revised Statutes Supplement, 2019, is
2 amended to read:

3 2-503 For purposes of the Nebraska Hemp Farming Act:

4 (1) Acceptable hemp THC level has the same meaning as in 7 C.F.R.
5 990.1, as such section existed on January 1, 2020;

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

10 (3) Approved testing facility means a testing facility approved by
11 the department;

12 (4) (1) Broker means a person who engages or participates in the
13 marketing of hemp by acting as an intermediary or negotiator between
14 prospective buyers and sellers;

15 (5) (2) Commercial sale means the sale of products in the stream of
16 commerce, at retail, wholesale, and online;

17 (6) (3) Commission means the Nebraska Hemp Commission;

18 (7) (4) Cultivate or cultivating means planting, watering, growing,
19 and harvesting a hemp plant or crop. The presence of plants of the plant
20 Cannabis sativa L. growing as uncultivated, naturalized plants in the
21 environment is not cultivating hemp for purposes of the Nebraska Hemp
22 Farming Act;

23 (8) (5) Cultivator means a person who cultivates hemp;

24 (9) (6) Department means the Department of Agriculture;

25 (10) (7) Director means the Director of Agriculture or his or her
26 designee;

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

1 (11) ~~(9)~~ GPS coordinates means latitude and longitude coordinates
2 derived from a global positioning system;

3 (12) ~~(10)~~ Handle or handling means possessing or storing hemp plants
4 or hemp plant parts prior to cultivation, in the process of cultivation,
5 or after being harvested or dried but before processing for any period of
6 time on premises owned, operated, or controlled by a person licensed to
7 cultivate or process hemp. Handle or handling also includes possessing or
8 storing such hemp plants or hemp plant parts in a vehicle for any period
9 of time other than during its actual transport from the premises of a
10 person licensed to cultivate or process hemp to the premises of another
11 licensee licensed person. Handle or handling does not include possessing,
12 storing, or transporting finished hemp products or hemp seeds;

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

21 (14) ~~(12)~~ Licensee means an individual or a business entity
22 possessing a license issued by the department under the Nebraska Hemp
23 Farming Act, including authorized employees or agents of such licensee,
24 to cultivate, handle, process, or broker hemp;

25 (15) ~~(13)~~ Location ID means the unique identifier established by a
26 licensee for each unique set of GPS coordinates where hemp is cultivated,
27 handled, or processed;

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

31 (17) Measurement of uncertainty has the same meaning as in 7 C.F.R.

1 990.1, as such section existed on January 1, 2020;

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

6 ~~(18) (15) Person means an individual, partnership, corporation,~~
7 ~~limited liability company, association, postsecondary institution, or~~
8 ~~other legal entity;~~

9 ~~(19) (16) Postsecondary institution means a postsecondary~~
10 ~~institution as defined in section 85-2403 that also meets the~~
11 ~~requirements of 20 U.S.C. 1001, as such section existed on January 1,~~
12 ~~2019;~~

13 ~~(20) (17) Process or processing means converting hemp plants or~~
14 ~~plant parts into a marketable form;~~

15 ~~(21) (18) Processor-handler means a person who handles or processes~~
16 ~~hemp;~~

17 ~~(22) (19) Site means an area defined by the same legal description~~
18 ~~in a field, greenhouse, or other outdoor area or indoor structure, or for~~
19 ~~a mobile processor, such processor's primary place of business;~~

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

22 ~~(23) (21) THC means tetrahydrocannabinol; and -~~

23 ~~(24) USDA-licensed hemp producer means a person licensed by the~~
24 ~~United States Department of Agriculture to produce hemp as provided in 7~~
25 ~~C.F.R. part 990, subpart C, as such regulations existed on January 1,~~
26 ~~2020.~~

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

29 2-504 (1) Subject to the Nebraska Hemp Farming Act ~~Notwithstanding~~
30 ~~any other provision of law,~~ it shall be lawful:

31 (a) For a licensee or his or her employee or agent to cultivate,

1 handle, process, or broker hemp in Nebraska and to transport hemp outside
2 of Nebraska; and

3 (b) To possess, transport, sell, and purchase lawfully produced hemp
4 products.

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

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

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

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

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

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

27 (e) A procedure for conducting, at a minimum, annual inspections of
28 a random sample of hemp cultivators and processor-handlers to verify that
29 hemp is not cultivated, processed, or handled in violation of the
30 Nebraska Hemp Farming Act or the state plan as described in section
31 2-516. The department may, at its discretion, conduct other inspections

1 of a cultivator's or processor-handler's operation, including all sites
2 registered with the department;

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

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

8 (h) Developing a bill of lading form for use by a person
9 transporting hemp as provided in section 16 of this act. Such bill of
10 lading shall, at a minimum:

11 (i) Identify the transporting person;

12 (ii) List a traceable reference, in accordance with the federal
13 Agriculture Improvement Act of 2018, to the lot in which the hemp was
14 grown, matching the lot listed on the test results or other documentation
15 required by section 2-515 or section 16 of this act; and

16 (iii) Indicate the owner, shipping point of origin, and destination
17 of the hemp;

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

22 (j) Recordkeeping requirements and procedures; and

23 (k) ~~(g)~~ Any other standard, practice, or procedure required by the
24 Nebraska Hemp Farming Act or the federal Agriculture Improvement Act of
25 2018.

26 Sec. 3. Section 2-505, Revised Statutes Supplement, 2019, is amended
27 to read:

28 2-505 (1) Hemp may only be cultivated by a USDA-licensed hemp
29 producer or a person meeting the requirements of section 2-5701 or in
30 compliance with this section.

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

1 Nebraska Hemp Farming Act, such person shall submit an application on a
2 form prescribed by the department that includes, but is not limited to,
3 the following:

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

6 (b) If the applicant is an entity and not an individual, (i) the
7 name of the applicant, mailing address, telephone number, and valid email
8 address, (ii) the full name of each officer, director, partner, member,
9 or owner owning in excess of ten percent of equity or stock in such
10 entity, (iii) the full name of each key participant as defined in 7
11 C.F.R. 990.1, and (iv) the birthdate, title, mailing address, telephone
12 number, and valid email address of each such person or key participant;

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

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

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

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

27 (4) 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 site registration fee as set by the department pursuant to section
30 2-508. The site registration fee shall be paid for each separate site
31 where the applicant will cultivate hemp. Subsequent modifications to the

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

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

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

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

25 (8) An application and supporting documents submitted to the
26 department under this section are not public records subject to
27 disclosure pursuant to sections 84-712 to 84-712.09. Such information may
28 be submitted to the United States Department of Agriculture pursuant to
29 the requirements of ~~section 10113~~ of the federal Agriculture Improvement
30 Act of 2018, ~~Public Law 115-334~~, as such section existed on January 1,
31 ~~2019~~, or any other federal statute, rule, or regulation, and may be

1 submitted to law enforcement.

2 Sec. 4. Section 2-506, Revised Statutes Supplement, 2019, is amended
3 to read:

4 2-506 (1) Except for handling by an approved testing facility, a
5 USDA-licensed hemp producer, or a cultivator licensed under section 2-505
6 facilities, a person shall not process, handle, or broker hemp plants or
7 plant parts in this state unless the person meets the requirements of
8 section 2-5701 or is in compliance with this section and licensed as a
9 processor-handler or broker under the Nebraska Hemp Farming Act.

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

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

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

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

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

29 (3) Before a person ~~other than an approved testing facility~~ may be
30 licensed to process, handle, or broker hemp, such person shall submit
31 with the application a nonrefundable application fee as set by the

1 department pursuant to section 2-508.

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

13 (5) ~~An~~ After the department receives approval by the United States
14 Secretary of Agriculture for the state plan submitted pursuant to section
15 ~~2-516,~~ an initial processor-handler or broker license application may be
16 submitted at any time. An initial processor-handler or broker license
17 issued by the department expires on December 31 in the calendar year for
18 which it was issued.

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

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

31 (8) A processor-handler licensee who also brokers hemp shall not be

1 required to also obtain a broker license under this section.

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

10 Sec. 5. Section 2-507, Revised Statutes Supplement, 2019, is amended
11 to read:

12 2-507 (1) The department shall receive and process all completed
13 license applications and issue licenses to all qualified applicants. The
14 department shall deny ~~may adopt and promulgate rules and regulations~~
15 ~~governing the approval and denial of~~ cultivator, processor-handler, and
16 broker license applications. ~~Such applications shall be denied if they~~
17 are incomplete or deficient, or if the applicant does not meet minimum
18 qualifications, including, but not limited to:

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

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

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

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

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

28 (i) At any time under this section;

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

31 (iii) In the ten years preceding the date of application under

1 section 2-512; or

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

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

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

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

17 Sec. 6. Section 2-510, Revised Statutes Supplement, 2019, is amended
18 to read:

19 2-510 (1) A cultivator, processor-handler, or broker consents to all
20 of the following:

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

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

31 (c) Reimbursement of the department for expenses relating to

1 ~~sampling and testing~~ ~~Testing of samples~~ of any hemp or hemp material;

2 (d) Destruction of any of the following:

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

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

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

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

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

21 Sec. 7. Section 2-511, Revised Statutes Supplement, 2019, is amended
22 to read:

23 2-511 (1) For purposes of this section, a negligent violation shall
24 include, but not be limited to:

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

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

29 (c) Production of cannabis with a delta-9 tetrahydrocannabinol
30 concentration exceeding the acceptable hemp THC level. A cultivator does
31 not commit a negligent violation under this subsection if the cultivator

1 has made reasonable efforts to grow hemp and the cannabis does not have a
2 delta-9 tetrahydrocannabinol concentration of more than 0.5 percent on a
3 dry weight basis.

4 (2) ~~(1)~~ Upon a determination by the director that any person in the
5 state has negligently unintentionally violated the Nebraska Hemp Farming
6 Act, a state plan as described in section 2-516 approved by the United
7 States Department of Agriculture, any rules and regulations adopted and
8 promulgated under the act, a corrective action plan issued pursuant to
9 this section, or an order of the director, the director may:

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

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

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

16 (3) ~~(2)~~ Any person who commits a negligent violation under this
17 section shall not be subject to any additional criminal enforcement by
18 state or local government authorities other than authorized under this
19 section.

20 (4) ~~(3)~~ Any person who negligently unintentionally violates the
21 Nebraska Hemp Farming Act, a state plan as described in section 2-516
22 approved by the United States Department of Agriculture, any rules and
23 regulations adopted and promulgated under the act, a corrective action
24 plan issued pursuant to this section, or an order of the director three
25 times in a five-year period shall be ineligible to obtain a license to
26 cultivate, handle, process, or broker hemp for a period of five years
27 beginning on the date of the third violation.

28 (5) ~~(4)~~ If the director orders issuance of a corrective action plan,
29 such plan may include:

30 (a) A reasonable date by which the licensee shall correct the
31 negligent unintentional violation;

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

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

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

8 (6) ~~(5)~~ Upon violation of a corrective action plan, the director may
9 issue an amended corrective action plan.

10 (7) ~~(6)~~ A person aggrieved by an order of the director may request a
11 hearing pursuant to section 2-513.

12 (8) ~~(7)~~ The director shall advise the Attorney General of the
13 failure of any person to pay an administrative fine imposed under this
14 section. The Attorney General shall bring an action in Lancaster County
15 district court to recover the fine.

16 (9) ~~(8)~~ Any administrative fine collected under this section shall
17 be remitted to the State Treasurer for distribution in accordance with
18 Article VII, section 5, of the Constitution of Nebraska.

19 Sec. 8. Section 2-512, Revised Statutes Supplement, 2019, is amended
20 to read:

21 2-512 (1) Upon a determination by the director that any person in
22 the state has, with a culpable mental state greater than negligence,
23 ~~intentionally~~ violated the Nebraska Hemp Farming Act, a state plan
24 approved by the United States Department of Agriculture, any rules and
25 regulations adopted and promulgated under the act, or an order of the
26 director, the director shall:

27 (a) Notify the United States Attorney General;

28 (b) Notify the Attorney General; and

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

31 (2) Any person who, with a culpable mental state greater than

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

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

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

14 Sec. 9. Section 2-514, Revised Statutes Supplement, 2019, is amended
15 to read:

16 2-514 (1) At the licensee's expense, hemp from each lot grown at
17 Hemp from each cultivation site registered with the department shall be
18 sampled for compliance with the acceptable hemp THC level tested for
19 delta-9 tetrahydrocannabinol concentration prior to harvest and tested by
20 an approved testing facility. After such lot sample is taken, the lot
21 represented by the sample shall be harvested within fifteen days at the
22 licensee's expense. The results of such tests shall be certified directly
23 to the department by the approved testing facility prior to harvest. The
24 test results shall identify the lot for the hemp represented by the
25 sample location ID where the hemp was cultivated.

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

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

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

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

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

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

15 (8) The test sample shall be obtained in compliance with the federal
16 Agriculture Improvement Act of 2018 ~~from flowering tops when flowering is~~
17 ~~occurring, shall be approximately eight inches in length, and shall~~
18 ~~consist of the fan leaf, the stalk, the flower, and, if available, the~~
19 ~~seed head.~~

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

22 (10) The approved testing facility shall provide a report giving the
23 results of the potency analysis of each sample. Measurement of
24 uncertainty shall be estimated and reported with test results.
25 Laboratories shall use appropriate validated methods and procedures for
26 all testing activities and evaluation of measurement of uncertainty. For
27 tests directed by the department, the report shall be provided to the
28 licensee and a copy of the report shall be issued to the department. The
29 report shall be provided before the harvest date, if applicable.

30 (11) When a test result is adverse, the department may require a
31 licensee to have further tests done and may require harvesting and

1 destruction of any plants in any portions of the site containing
2 noncompliant plants.

3 Sec. 10. Section 2-515, Revised Statutes Supplement, 2019, is
4 amended to read:

5 2-515 (1) Except as provided in subsection (4) of this section, any
6 Any cultivator transporting hemp cultivated under the Nebraska Hemp
7 Farming Act shall carry with the hemp being transported a copy of the
8 cultivator license under which it was cultivated and a copy of the test
9 results pertaining to each lot of such hemp being transported.

10 (2) Except as provided in subsection (4) of this section, any Any
11 processor-handler transporting hemp processed under the Nebraska Hemp
12 Farming Act shall carry with the hemp being transported a copy of the
13 processor-handler license under which the hemp is being transported and a
14 copy of the test results pertaining to such hemp.

15 (3)(a) A licensee shall maintain a record of shipments of hemp
16 shipped from or received by the licensee. Such record shall, for each
17 shipment of hemp, indicate the date of shipment, identify the point of
18 origin and destination, identify the name of the person sending and
19 receiving the shipment, and include the vehicle identification number of
20 the vehicle transporting the hemp. Each shipment of hemp shall be entered
21 on the record of shipments kept by the licensee by the close of the
22 business day the shipment is shipped from or received by the licensee.

23 (b) A licensee may give notice to the Nebraska State Patrol up to
24 seven days prior to a shipment of hemp to be shipped from or received by
25 the licensee. Such notification shall be given in a manner and form
26 prescribed by the Nebraska State Patrol and shall not be considered a
27 public record for purposes of sections 84-712 to 84-712.09.

28 (4) Any licensee transporting hemp cultivated or processed under the
29 Nebraska Hemp Farming Act shall not be required to carry a copy of the
30 test results relating to such hemp as provided in subsection (1) or (2)
31 of this section if such licensee carries with the hemp being transported

1 a copy of the applicable license and is transporting:

2 (a) Hemp between two registered sites listed on the licensee's
3 license application;

4 (b) Samples of hemp for testing to determine the THC level for
5 private testing purposes prior to testing pursuant to section 2-514; or

6 (c) Live hemp plants to a registered site listed on the licensee's
7 license application prior to cultivating such hemp plants.

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

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

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

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

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

29 ~~(A) For hemp originating in this state, the requirements of section~~
30 ~~10113 of the federal Agriculture Improvement Act of 2018, Public Law~~
31 ~~115-334, as such section existed on January 1, 2019, and the Nebraska~~

1 ~~Hemp Farming Act and any rules and regulations adopted and promulgated~~
2 ~~thereunder; or~~

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

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

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

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

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

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

31 ~~(6) In addition to any other penalties provided by law, including~~

1 ~~those imposed under the Nebraska Hemp Farming Act, any person who~~
2 ~~intentionally violates this section shall be guilty of a Class IV~~
3 ~~misdemeanor and fined not more than one thousand dollars.~~

4 Sec. 11. Section 2-516, Revised Statutes Supplement, 2019, is
5 amended to read:

6 2-516 (1) No later than December 31, 2019, the director, in
7 consultation with the Governor and the Attorney General, shall submit to
8 the United States Secretary of Agriculture for approval a state plan by
9 which the department shall regulate the cultivation, handling, and
10 processing of hemp. Such state plan shall include, at a minimum:

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

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

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

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

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

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

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

31 (2) If the United States Secretary of Agriculture disapproves the

1 plan, the director, in consultation with the Governor and the Attorney
2 General, shall submit an amended state plan to the secretary within
3 ninety days after such disapproval.

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

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

11 Sec. 12. Section 2-517, Revised Statutes Supplement, 2019, is
12 amended to read:

13 2-517 (1) The Nebraska Hemp Commission is created. The commission
14 shall consist of the following members:

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

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

19 (c) Three members appointed by the Governor representing the
20 following interests:

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

22 (ii) A manufacturer of hemp products.

23 (2) Members appointed pursuant to subdivisions (1)(b) and (c) of
24 this section shall serve a term of four years and may be reappointed. A
25 majority of the members of the commission shall constitute a quorum. The
26 commission shall annually elect one member from among the remaining
27 members to serve as chairperson. The commission shall meet quarterly and
28 may meet more often upon the call of the chairperson or by request of a
29 majority of the members. The commission shall be appointed no later than
30 sixty days after the operative date of this section and conduct its first
31 meeting no later than thirty days after appointment of the commission

1 ~~September 1, 2019~~. The members of the commission shall serve without pay
2 but shall receive expenses incurred while on official business as
3 provided in sections 81-1174 to 81-1177.

4 (3) The commission shall have primary responsibility for promoting
5 the Nebraska hemp industry and shall have the following powers and
6 duties:

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

10 (b) To prepare and approve a budget;

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

13 (d) To contract for services and authorize the expenditure of funds
14 which are necessary for the proper operation of this section and section
15 2-519;

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

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

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

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

31 (a) Federal laws and regulatory constraints;

1 (b) The economic and financial feasibility of a hemp market in
2 Nebraska;

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

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

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

6 (f) The feasibility of private funding for a Nebraska hemp research
7 program;

8 (g) Law enforcement concerns;

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

11 (i) Technical support and education about hemp.

12 (5) The commission is authorized to develop and coordinate programs
13 to research and promote hemp, including, but not limited to, cultivating,
14 handling, processing, transporting, marketing, and selling hemp and
15 preserving and developing Nebraska heirloom hemp varieties that possess
16 characteristics of a unique and specialized cannabis sativa L. seed
17 variety that exist as uncultivated, naturalized plants in the environment
18 or historically have been commercially cultivated in Nebraska.

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

24 Sec. 13. Section 2-5701, Revised Statutes Supplement, 2019, is
25 amended to read:

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

30 (2) Sites used for cultivating industrial hemp must be certified by,
31 and registered with, the Department of Agriculture.

1 (3)(a) Prior to approval by the United States Secretary of
2 Agriculture of the state plan as provided in section 2-516, a person with
3 a valid licensing agreement with the department pursuant to this section
4 may cultivate, handle, or process industrial hemp as a part of the
5 department's agricultural pilot program. ~~Qualified applicants shall be~~
6 ~~selected at random by the department.~~ To be qualified to apply and to
7 retain a valid licensing agreement, a cultivator or processor-handler
8 shall comply with all applicable requirements set forth in the Nebraska
9 Hemp Farming Act, except that a licensing agreement shall be required in
10 lieu of any license requirements under the act.

11 (b) A cultivator or processor-handler shall pay the license
12 application fee, site registration fee, and site modification fee, if
13 applicable, established in section 2-508 for each one-year licensing
14 agreement and shall be required to submit a report for department
15 research purposes. The report shall be submitted as required by the
16 department. All fees collected by the department under this section shall
17 be remitted to the State Treasurer for credit to the Nebraska Hemp
18 Program Fund.

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

23 (d) A cultivator or processor-handler who has had a licensing
24 agreement terminated for failure to comply with the agreement or the
25 Nebraska Hemp Farming Act, or any rules or regulations adopted and
26 promulgated under the act, may request a hearing as set forth in section
27 2-513.

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

30 (4) For purposes of this section:

31 (a) Agricultural pilot program means a pilot program to study the

1 cultivation or marketing of industrial hemp;

2 (b) Cultivate and cultivator have the same meaning as in section
3 2-503;

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

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

6 (e) Postsecondary institution has the same meaning as in section
7 2-503; and

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

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

11 Sec. 14. Section 28-101, Revised Statutes Supplement, 2019, is
12 amended to read:

13 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and section
14 16 of this act shall be known and may be cited as the Nebraska Criminal
15 Code.

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

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

21 Sec. 16. (1) Any person other than the Department of Agriculture, a
22 cultivator, a processor-handler, or an approved testing facility who is
23 transporting hemp shall carry with such hemp being transported (a) a bill
24 of lading indicating the owner of the hemp, the point of origin of the
25 hemp, and the destination of the hemp and (b) either a copy of the test
26 results pertaining to such hemp or other documentation affirming that the
27 hemp was produced in compliance with the federal Agriculture Improvement
28 Act of 2018.

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

31 (i) Produced in compliance with:

1 (A) For hemp originating in this state, the requirements of the
2 federal Agriculture Improvement Act of 2018 under the Nebraska Hemp
3 Farming Act and any rules and regulations adopted and promulgated
4 thereunder, a tribal hemp production plan approved by the United States
5 Secretary of Agriculture, or the United States Department of Agriculture
6 Domestic Hemp Production Plan; or

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

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

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

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

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

30 (c) This subsection does not limit or restrict in any way the power
31 of a peace officer to enforce violations of the Uniform Controlled

1 Substances Act and federal law regulating marijuana and other controlled
2 substances.

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

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

10 (6) For purposes of this section:

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

13 (b) Approved testing facility has the same meaning as in section
14 2-503;

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

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

17 Sec. 17. Sections 12 and 18 of this act become operative on July 1,
18 2021. The other sections of this act become operative on their effective
19 date.

20 Sec. 18. Original section 2-517, Revised Statutes Supplement, 2019,
21 is repealed.

22 Sec. 19. Original section 28-401.01, Revised Statutes Cumulative
23 Supplement, 2018, and sections 2-503, 2-504, 2-505, 2-506, 2-507, 2-510,
24 2-511, 2-512, 2-514, 2-515, 2-516, 2-5701, and 28-101, Revised Statutes
25 Supplement, 2019, are repealed.

26 Sec. 20. Since an emergency exists, this act takes effect when
27 passed and approved according to law.