

AMENDMENTS TO LB262

Introduced by Agriculture.

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

3 Section 1. Section 2-503, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 2-503 For purposes of the Nebraska Hemp Farming Act:

6 (1) Acceptable hemp THC level has the same meaning as in 7 C.F.R.
7 ~~part 990~~ ~~990.1~~, as such ~~part section~~ existed on January 1, ~~2023~~ ~~2020~~;

8 (2) Agriculture Improvement Act of 2018 means section 10113 of the
9 federal Agriculture Improvement Act of 2018, Public Law 115-334, and any
10 regulations adopted and promulgated under such section, as such section,
11 act, and regulations existed on January 1, ~~2023~~ ~~2020~~;

12 (3) Approved testing facility means a testing facility approved by
13 the department;

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

17 (5) Commercial sale means the sale of products in the stream of
18 commerce, at retail, wholesale, and online;

19 (6) Commission means the Nebraska Hemp Commission;

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

25 (8) Cultivator means a person who cultivates hemp;

26 (9) Department means the Department of Agriculture;

27 (10) Director means the Director of Agriculture or his or her

1 designee;

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

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

13 (13) Hemp means the plant *Cannabis sativa* L. and any part of such
14 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) Licensee means an individual or a business entity possessing a
22 license issued by the department under the Nebraska Hemp Farming Act,
23 including authorized employees or agents of such licensee, to cultivate,
24 handle, process, or broker hemp;

25 (15) 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 part 990 ~~990.1~~, as such part ~~section~~ existed on January 1, 2023 ~~2020~~;

2 (18) Person means an individual, partnership, corporation, limited
3 liability company, association, postsecondary institution, or other legal
4 entity;

5 (19) Postsecondary institution means a postsecondary institution as
6 defined in section 85-2403 that also meets the requirements of 20 U.S.C.
7 1001, as such section existed on January 1, 2019;

8 (20) Process or processing means converting hemp plants or plant
9 parts into a marketable form;

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

11 (22) Remediation has the same meaning as in 7 C.F.R. part 990, as
12 such part existed on January 1, 2023;

13 (23) ~~(22)~~ Site means an area defined by the same legal description
14 in a field, greenhouse, or other outdoor area or indoor structure, or for
15 a mobile processor, such processor's primary place of business;

16 (24) ~~(23)~~ THC means tetrahydrocannabinol; and

17 (25) ~~(24)~~ USDA-licensed hemp producer means a person licensed by the
18 United States Department of Agriculture to produce hemp as provided in 7
19 C.F.R. part 990, subpart C, as such regulations existed on January 1,
20 2023 ~~2020~~.

21 Sec. 2. Section 2-504, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 2-504 (1) Subject to the Nebraska Hemp Farming Act, it shall be
24 lawful:

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

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

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

1 brokers that meets the requirements of the federal Agriculture
2 Improvement Act of 2018 and the Nebraska Hemp Farming Act.

3 (3) The director may alter or amend the state plan as provided under
4 section 2-516 and the department may adopt and promulgate rules and
5 regulations to implement the Nebraska Hemp Farming Act and administer
6 programs, including, but not limited to, the following:

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

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

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

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

19 (e) A procedure for conducting, at a minimum, annual inspections of
20 a random sample of hemp cultivators and processor-handlers to verify that
21 hemp is not cultivated, handled, or processed, ~~or handled~~ in violation of
22 the Nebraska Hemp Farming Act or the state plan as described in section
23 2-516. The department may, at its discretion, conduct other inspections
24 of a cultivator's or processor-handler's operation, including all sites
25 registered with the department;

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

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

31 (h) Developing a bill of lading form for use by a person

1 transporting hemp as provided in section 28-476. Such bill of lading
2 shall, at a minimum:

3 (i) Identify the transporting person;

4 (ii) List a traceable reference, in accordance with the federal
5 Agriculture Improvement Act of 2018, to the lot in which the hemp was
6 grown, matching the lot listed on the test results or other documentation
7 required by section 2-515 or section 28-476; and

8 (iii) Indicate the owner, shipping point of origin, and destination
9 of the hemp;

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

14 (j) Record-keeping requirements and procedures, including
15 cultivation, harvest, and destruction reports and deadlines for the
16 submission of such reports; and

17 (k) Any other standard, practice, or procedure required by the
18 Nebraska Hemp Farming Act or the federal Agriculture Improvement Act of
19 2018.

20 Sec. 3. Section 2-505, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 2-505 (1) Hemp may only be cultivated by a USDA-licensed hemp
23 producer or a person ~~meeting the requirements of section 2-5701 or in~~
24 compliance with this section.

25 (2) Before a person may be licensed to cultivate hemp under the
26 Nebraska Hemp Farming Act, such person shall submit an application on a
27 form prescribed by the department that includes, but is not limited to,
28 the following:

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

31 (b) If the applicant is an entity and not an individual, (i) the

1 name of the applicant, mailing address, telephone number, and valid email
2 address, (ii) the full name of each officer, director, partner, member,
3 or owner owning in excess of ten percent of equity or stock in such
4 entity, (iii) the full name of each key participant as defined in 7
5 C.F.R. part 990, as such part existed on January 1, 2023 ~~990-1~~, and (iv)
6 the birthdate, title, mailing address, telephone number, and valid email
7 address of each such person or key participant;

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

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

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

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

22 (4) Before a person may be licensed to cultivate hemp under the
23 Nebraska Hemp Farming Act, such person shall submit a site registration
24 fee as set by the department pursuant to section 2-508. The site
25 registration fee shall be paid for each separate site where the applicant
26 will cultivate hemp. Subsequent modifications to the sites listed in the
27 application shall be submitted on forms prescribed by the department
28 along with a site modification fee and shall only take effect upon
29 written approval of the department. The applicant must certify that all
30 sites where hemp is to be cultivated are under the control of the
31 applicant and that the department shall have unlimited access to all such

1 sites.

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

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

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

20 (8) An application and supporting documents submitted to the
21 department under this section are not public records subject to
22 disclosure pursuant to sections 84-712 to 84-712.09. Such information may
23 be submitted to the United States Department of Agriculture pursuant to
24 the requirements of the federal Agriculture Improvement Act of 2018 or
25 any other federal statute, rule, or regulation, and may be submitted to
26 law enforcement.

27 Sec. 4. Section 2-506, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 2-506 (1) Except for handling by an approved testing facility, a
30 USDA-licensed hemp producer, or a cultivator licensed under section
31 2-505, a person shall not handle, process, ~~handle~~, or broker hemp plants

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

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

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

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

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

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

23 (3) Before a person may be licensed to handle, process, handle, or
24 broker hemp, such person shall submit with the application a
25 nonrefundable application fee as set by the department pursuant to
26 section 2-508.

27 (4) Before a person may be licensed to handle or process ~~or handle~~
28 hemp, such person shall submit a site registration fee as set by the
29 department pursuant to section 2-508. The site registration fee shall be
30 paid for each separate site where hemp is handled or processed~~or~~
31 ~~handled~~. Subsequent modifications to the sites listed in the application

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

7 (5) An initial processor-handler or broker license application may
8 be submitted at any time. An initial processor-handler or broker license
9 issued by the department expires on December 31 in the calendar year for
10 which it was issued.

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

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

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

25 (9) 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 the federal Agriculture Improvement Act of 2018 or
30 any other federal statute, rule, or regulation, and may be submitted to
31 law enforcement.

1 Sec. 5. Section 2-508, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 2-508 (1) License fees under the Nebraska Hemp Farming Act are due
4 ~~with the license application on or before December 31~~ and shall be in the
5 amount listed in column A of subsection (2) of this section. The fees ~~due~~
6 ~~on or before December 31, 2019, and by each December 31 thereafter~~ shall
7 be set by the director on or before July 1 of each year. The director may
8 raise or lower such fees each year to meet the criteria in this
9 subsection, but the fee shall not be greater than the amount in column B
10 of subsection (2) of this section. The same percentage shall be applied
11 to each category for all fee increases or decreases. The director shall
12 use the fees in column A of subsection (2) of this section as a base for
13 future fee increases or decreases. The director shall determine the fees
14 based on estimated annual revenue and fiscal year-end cash fund balances
15 as follows:

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

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

22 (2) Fees.

| 23 Fees | A | B |
|---|----------------|------------------|
| 24 Cultivator, processor-handler, and | | |
| 25 broker license application fee | \$100 | \$150 |
| 26 Cultivator site registration fee | \$400 per site | \$600 per site |
| 27 Processor-handler site | | |
| 28 registration fee | \$800 per site | \$1,200 per site |
| 29 Site modification fee | \$50 | \$75 |

30 ~~(3) Any fee remaining unpaid for more than one month shall be~~

1 ~~considered delinquent and the person owing the fee shall pay an~~
2 ~~additional administrative fee of twenty five percent of the delinquent~~
3 ~~amount for each month it remains unpaid, not to exceed one hundred~~
4 ~~percent of the original amount due. The department may waive the~~
5 ~~additional administrative fee based upon the existence and extent of any~~
6 ~~mitigating circumstances that have resulted in the late payment of such~~
7 ~~fee. The purpose of the additional administrative fee is to cover the~~
8 ~~administrative costs associated with collecting fees, and all money~~
9 ~~collected as an additional administrative fee shall be remitted to the~~
10 ~~State Treasurer for credit to the Nebraska Hemp Program Fund.~~

11 Sec. 6. Section 2-509, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 2-509 The Nebraska Hemp Program Fund is established. The fund shall
14 be administered by the department for the purpose of covering the costs
15 of the department in administering sections 2-504 to 2-516 ~~and 2-5701~~.
16 The fund may receive appropriations by the Legislature, gifts, grants,
17 federal funds, and any other funds both public and private. All fees
18 collected by the department under section ~~sections~~ 2-508 ~~and 2-5701~~ shall
19 be remitted to the State Treasurer for credit to the fund. Transfers from
20 the Nebraska Hemp Program Fund to the Noxious Weed Cash Fund may be made
21 as provided in section 2-958. Transfers from the Nebraska Hemp Program
22 Fund to the Fertilizers and Soil Conditioners Administrative Fund may be
23 made as provided in section 81-2,162.27. Any money in the fund available
24 for investment shall be invested by the state investment officer pursuant
25 to the Nebraska Capital Expansion Act and the Nebraska State Funds
26 Investment Act.

27 Sec. 7. Section 2-510, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 2-510 (1) A cultivator, processor-handler, or broker shall give
30 consent ~~consents~~ to all of the following:

31 (a) A background check for any felony controlled substance charge in

1 the ten years prior to the time of application completed by the
2 department or a law enforcement agency at the direction of the
3 department, at any time, for all of the individuals listed on the
4 cultivator's, processor-handler's, or broker's application at the
5 applicant's expense, which shall be in addition to the application and
6 registration fees;

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

10 (c) Reimbursement of the department for expenses relating to
11 sampling and testing of any hemp or hemp material;

12 (d) Destruction, as soon as possible but no later than thirty days
13 after receiving notification from the department ordering such
14 destruction, of any of the following:

15 (i) Hemp found to have a measured delta-9 tetrahydrocannabinol
16 concentration greater than the acceptable hemp THC level. Only hemp from
17 lots found to have a measured delta-9 tetrahydrocannabinol concentration
18 greater than the acceptable hemp THC level shall be subject to
19 destruction;

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

23 (iii) Hemp that is cultivated, handled, ~~processed,~~ ~~handled,~~ or
24 brokered in a manner that violates the Nebraska Hemp Farming Act or the
25 rules and regulations adopted and promulgated thereunder; and

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

29 (2) A cultivator, processor-handler, or broker acknowledges that all
30 risk of financial loss under the Nebraska Hemp Farming Act is borne by
31 such person. No compensation shall be paid by the department or the State

1 of Nebraska for destruction of any hemp under this section.

2 Sec. 8. Section 2-511, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 2-511 (1) For purposes of this section, a negligent violation shall
5 include, but not be limited to:

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

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

10 (c) Production of cannabis with ~~a delta-9 tetrahydrocannabinol~~
11 ~~concentration~~ exceeding the acceptable hemp THC level. A cultivator does
12 not commit a negligent violation under this subsection if the cultivator
13 has made reasonable efforts to grow hemp and the cannabis does not have a
14 delta-9 tetrahydrocannabinol concentration of more than 1.0 ~~0.5~~ percent
15 on a dry weight basis.

16 (2) Upon a determination by the director that any person in the
17 state has negligently violated the Nebraska Hemp Farming Act, a state
18 plan as described in section 2-516 approved by the United States
19 Department of Agriculture, any rules and regulations adopted and
20 promulgated under the act, a corrective action plan issued pursuant to
21 this section, or an order of the director, the director may:

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

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

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

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

31 (4) Any person who negligently violates the Nebraska Hemp Farming

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

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

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

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

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

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

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

21 (7) A person aggrieved by an order of the director may request a
22 hearing pursuant to section 2-513.

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

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

30 Sec. 9. Section 2-514, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 2-514 (1) In accordance with the state plan described in section
2 2-516 and the Nebraska Hemp Farming Act, and at At the licensee's
3 expense, hemp from each lot grown at each cultivation site registered
4 with the department shall be sampled for compliance with the acceptable
5 hemp THC level prior to harvest and tested by an approved testing
6 facility. When requesting a date for collecting the preharvest sample,
7 the licensee shall provide notice to the department at least seven days
8 prior to harvest. The licensee may be required to delay harvest until
9 such sample is taken. The licensee shall be responsible for any damages
10 related to the failure of the licensee to provide proper notice as
11 required by this subsection. After such lot sample is taken, the lot
12 represented by the sample shall be harvested within ~~thirty~~ fifteen days.
13 The results of such tests shall be certified directly to the department
14 by the approved testing facility prior to harvest. The test results shall
15 identify the lot for the hemp represented by the sample.

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

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

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

30 (5) Testing of hemp shall be conducted by an approved testing
31 facility.

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

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

5 (8) The test sample shall be obtained in compliance with the federal
6 Agriculture Improvement Act of 2018.

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

9 (10) The approved testing facility shall provide a report giving the
10 results of the potency analysis of each sample. Measurement of
11 uncertainty shall be estimated and reported with test results.
12 Laboratories shall use appropriate validated methods and procedures for
13 all testing activities and evaluation of measurement of uncertainty. For
14 tests directed by the department, a copy of the report shall be provided
15 to the licensee ~~and a copy of the report shall be issued to the~~
16 ~~department.~~ The report shall be provided before the harvest date, if
17 applicable.

18 (11) When a test result is adverse, the department may, in its
19 discretion, require a licensee to have additional ~~further~~ tests done, and
20 ~~may~~ require harvesting and destruction of any plants in any portions of
21 the site containing noncompliant plants, or allow remediation or
22 retesting.

23 Sec. 10. Section 2-515, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 2-515 (1) Except as provided in subsection (4) of this section, any
26 cultivator transporting hemp cultivated under the Nebraska Hemp Farming
27 Act shall carry with the hemp being transported a copy of the cultivator
28 license under which it was cultivated and a copy of the test results
29 pertaining to each lot of hemp being transported.

30 (2) Except as provided in subsection (4) of this section, any
31 processor-handler transporting hemp cultivated ~~processed~~ under the

1 Nebraska Hemp Farming Act shall carry with the hemp being transported a
2 copy of the processor-handler license under which the hemp is being
3 transported and a copy of the test results pertaining to such hemp.

4 (3)(a) A licensee shall maintain a record of shipments of hemp
5 shipped from or received by the licensee. Such record shall, for each
6 shipment of hemp, indicate the date of shipment, identify the point of
7 origin and destination, identify the name of the person sending and
8 receiving the shipment, and include the vehicle identification number of
9 the vehicle transporting the hemp. Each shipment of hemp shall be entered
10 on the record of shipments kept by the licensee by the close of the
11 business day the shipment is shipped from or received by the licensee.

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

17 (4) Any licensee transporting hemp cultivated or processed under the
18 Nebraska Hemp Farming Act shall not be required to carry a copy of the
19 test results relating to such hemp as provided in subsection (1) or (2)
20 of this section if such licensee carries with the hemp being transported
21 a copy of the applicable license and is transporting:

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

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

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

28 Sec. 11. Section 2-517, Reissue Revised Statutes of Nebraska, is
29 amended to read:

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

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

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

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

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

8 (ii) A manufacturer of hemp products.

9 (2) Members appointed pursuant to subdivisions (1)(b) and (c) of
10 this section shall serve a term of four years and may be reappointed. A
11 majority of the members of the commission shall constitute a quorum. The
12 commission shall annually elect one member from among the remaining
13 members to serve as chairperson. The commission shall meet once annually
14 ~~quarterly~~ and may meet more often upon the call of the chairperson or by
15 request of a majority of the members. The commission shall be appointed
16 no later than sixty days after July 1, 2021, and conduct its first
17 meeting no later than thirty days after appointment of the commission.
18 The members of the commission shall serve without pay but shall receive
19 expenses incurred while on official business as provided in sections
20 81-1174 to 81-1177.

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

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

27 (b) To prepare and approve a budget;

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

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

1 2-519;

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

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

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

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

17 (a) Federal laws and regulatory constraints;

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

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

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

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

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

25 (g) Law enforcement concerns;

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

28 (i) Technical support and education about hemp.

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

1 preserving and developing Nebraska heirloom hemp varieties that possess
2 characteristics of a unique and specialized cannabis sativa L. seed
3 variety that exist as uncultivated, naturalized plants in the environment
4 or historically have been commercially cultivated in Nebraska.

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

10 Sec. 12. Section 28-401, Revised Statutes Cumulative Supplement,
11 2022, is amended to read:

12 28-401 As used in the Uniform Controlled Substances Act, unless the
13 context otherwise requires:

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

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

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

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

30 (5) Counterfeit substance means a controlled substance which, or the
31 container or labeling of which, without authorization, bears the

1 trademark, trade name, or other identifying mark, imprint, number, or
2 device, or any likeness thereof, of a manufacturer, distributor, or
3 dispenser other than the person or persons who in fact manufactured,
4 distributed, or dispensed such substance and which thereby falsely
5 purports or is represented to be the product of, or to have been
6 distributed by, such other manufacturer, distributor, or dispenser;

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

8 (7) Division of Drug Control means the personnel of the Nebraska
9 State Patrol who are assigned to enforce the Uniform Controlled
10 Substances Act;

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

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

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

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

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

30 (13) Hemp has the same meaning as in section 2-503;

31 (14)(a) Marijuana means all parts of the plant of the genus

1 cannabis, whether growing or not, the seeds thereof, and every compound,
2 manufacture, salt, derivative, mixture, or preparation of such plant or
3 its seeds.

4 (b) Marijuana does not include the mature stalks of such plant,
5 hashish, tetrahydrocannabinols extracted or isolated from the plant,
6 fiber produced from such stalks, oil or cake made from the seeds of such
7 plant, any other compound, manufacture, salt, derivative, mixture, or
8 preparation of such mature stalks, the sterilized seed of such plant
9 which is incapable of germination, or cannabidiol contained in a drug
10 product approved by the federal Food and Drug Administration.

11 (c) Marijuana does not include hemp.

12 (d) When the weight of marijuana is referred to in the Uniform
13 Controlled Substances Act, it means its weight at or about the time it is
14 seized or otherwise comes into the possession of law enforcement
15 authorities, whether cured or uncured at that time; -

16 ~~(e) When industrial hemp as defined in section 2-5701 is in the~~
17 ~~possession of a person as authorized under section 2-5701, it is not~~
18 ~~considered marijuana for purposes of the Uniform Controlled Substances~~
19 ~~Act;~~

20 (15) Manufacture means the production, preparation, propagation,
21 conversion, or processing of a controlled substance, either directly or
22 indirectly, by extraction from substances of natural origin,
23 independently by means of chemical synthesis, or by a combination of
24 extraction and chemical synthesis, and includes any packaging or
25 repackaging of the substance or labeling or relabeling of its container.
26 Manufacture does not include the preparation or compounding of a
27 controlled substance by an individual for his or her own use, except for
28 the preparation or compounding of components or ingredients used for or
29 intended to be used for the manufacture of methamphetamine, or the
30 preparation, compounding, conversion, packaging, or labeling of a
31 controlled substance: (a) By a practitioner as an incident to his or her

1 prescribing, administering, or dispensing of a controlled substance in
2 the course of his or her professional practice; or (b) by a practitioner,
3 or by his or her authorized agent under his or her supervision, for the
4 purpose of, or as an incident to, research, teaching, or chemical
5 analysis and not for sale;

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

19 (17) Opiate means any substance having an addiction-forming or
20 addiction-sustaining liability similar to morphine or being capable of
21 conversion into a drug having such addiction-forming or addiction-
22 sustaining liability. Opiate does not include the dextrorotatory isomer
23 of 3-methoxy-n methylmorphinan and its salts. Opiate includes its racemic
24 and levorotatory forms;

25 (18) Opium poppy means the plant of the species *Papaver somniferum*
26 L., except the seeds thereof;

27 (19) Poppy straw means all parts, except the seeds, of the opium
28 poppy after mowing;

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

31 (21) Practitioner means a physician, a physician assistant, a

1 dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a
2 certified nurse midwife, a certified registered nurse anesthetist, a
3 nurse practitioner, a scientific investigator, a pharmacy, a hospital, or
4 any other person licensed, registered, or otherwise permitted to
5 distribute, dispense, prescribe, conduct research with respect to, or
6 administer a controlled substance in the course of practice or research
7 in this state, including an emergency medical service as defined in
8 section 38-1207;

9 (22) Production includes the manufacture, planting, cultivation, or
10 harvesting of a controlled substance;

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

16 (24) State means the State of Nebraska;

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

21 (26) Hospital has the same meaning as in section 71-419;

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

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

1 (b) When resins extracted from ~~(i) industrial hemp as defined in~~
2 ~~section 2-5701 are in the possession of a person as authorized under~~
3 ~~section 2-5701 or (ii) hemp as defined in section 2-503 are in the~~
4 possession of a person as authorized under the Nebraska Hemp Farming Act,
5 they are not considered hashish or concentrated cannabis for purposes of
6 the Uniform Controlled Substances Act.

7 (c) Hashish or concentrated cannabis does not include cannabidiol
8 contained in a drug product approved by the federal Food and Drug
9 Administration;

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

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

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

1 human consumption, be treated as a controlled substance under Schedule I
2 of section 28-405 for purposes of the Uniform Controlled Substances Act;
3 and

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

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

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

30 (34) Medical order means a prescription, a chart order, or an order
31 for pharmaceutical care issued by a practitioner;

1 (35) Prescription means an order for a controlled substance issued
2 by a practitioner. Prescription does not include a chart order;

3 (36) Registrant means any person who has a controlled substances
4 registration issued by the state or the Drug Enforcement Administration
5 of the United States Department of Justice;

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

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

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

18 (40) Electronic signature has the definition found in section
19 86-621;

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

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

28 (43) Compounding has the same meaning as in section 38-2811;

29 (44) Cannabinoid receptor agonist means any chemical compound or
30 substance that, according to scientific or medical research, study,
31 testing, or analysis, demonstrates the presence of binding activity at

1 one or more of the CB1 or CB2 cell membrane receptors located within the
2 human body. Cannabinoid receptor agonist does not include cannabidiol
3 contained in a drug product approved by the federal Food and Drug
4 Administration; and

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

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

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

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

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

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

31 (f) The owner or person in control of the product or substance makes

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

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

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

16 Sec. 13. Section 75-156, Revised Statutes Cumulative Supplement,
17 2022, is amended to read:

18 75-156 (1) In addition to other penalties and relief provided by
19 law, the Public Service Commission may, upon a finding that the violation
20 is proven by clear and convincing evidence, assess a civil penalty of up
21 to ten thousand dollars per day against any person, motor carrier,
22 regulated motor carrier, common carrier, contract carrier, licensee,
23 grain dealer, or grain warehouse operator ~~warehouseman~~ for each violation
24 of (a) any provision of the laws of this state within the jurisdiction of
25 the commission as enumerated in section 75-109.01, (b) any term,
26 condition, or limitation of any certificate, permit, license, or
27 authority issued by the commission pursuant to the laws of this state
28 within the jurisdiction of the commission as enumerated in section
29 75-109.01, or (c) any rule, regulation, or order of the commission issued
30 under authority delegated to the commission pursuant to the laws of this
31 state within the jurisdiction of the commission as enumerated in section

1 75-109.01.

2 (2) In addition to other penalties and relief provided by law, the
3 Public Service Commission may, upon a finding that the violation is
4 proven by clear and convincing evidence, assess a civil penalty not less
5 than one hundred dollars and not more than one thousand dollars against
6 any jurisdictional utility for each violation of (a) any provision of the
7 State Natural Gas Regulation Act, (b) any rule, regulation, order, or
8 lawful requirement issued by the commission pursuant to the act, (c) any
9 final judgment or decree made by any court upon appeal from any order of
10 the commission, or (d) any term, condition, or limitation of any
11 certificate issued by the commission issued under authority delegated to
12 the commission pursuant to the act. The amount of the civil penalty
13 assessed in each case shall be based on the severity of the violation
14 charged. The commission may compromise or mitigate any penalty prior to
15 hearing if all parties agree. In determining the amount of the penalty,
16 the commission shall consider the appropriateness of the penalty in light
17 of the gravity of the violation and the good faith of the violator in
18 attempting to achieve compliance after notification of the violation is
19 given.

20 (3) In addition to other penalties and relief provided by law, the
21 Public Service Commission may, upon a finding that the violation is
22 proven by clear and convincing evidence, assess a civil penalty of up to
23 ten thousand dollars per day against any wireless carrier for each
24 violation of the Enhanced Wireless 911 Services Act or any rule,
25 regulation, or order of the commission issued under authority delegated
26 to the commission pursuant to the act.

27 (4) In addition to other penalties and relief provided by law, the
28 Public Service Commission may, upon a finding that the violation is
29 proven by clear and convincing evidence, assess a civil penalty of up to
30 one thousand dollars against any person for each violation of the
31 Nebraska Uniform Standards for Modular Housing Units Act or the Uniform

1 Standard Code for Manufactured Homes and Recreational Vehicles or any
2 rule, regulation, or order of the commission issued under the authority
3 delegated to the commission pursuant to either act. Each such violation
4 shall constitute a separate violation with respect to each modular
5 housing unit, manufactured home, or recreational vehicle, except that the
6 maximum penalty shall not exceed one million dollars for any related
7 series of violations occurring within one year from the date of the first
8 violation.

9 (5) The civil penalty assessed under this section shall not exceed
10 two million dollars per year for each violation except as provided in
11 subsection (4) of this section. The amount of the civil penalty assessed
12 in each case shall be based on the severity of the violation charged. The
13 commission may compromise or mitigate any penalty prior to hearing if all
14 parties agree. In determining the amount of the penalty, the commission
15 shall consider the appropriateness of the penalty in light of the gravity
16 of the violation and the good faith of the violator in attempting to
17 achieve compliance after notification of the violation is given.

18 (6) Upon notice and hearing in accordance with this section and
19 section 75-157, the commission may enter an order assessing a civil
20 penalty of up to one hundred dollars against any person, firm,
21 partnership, limited liability company, corporation, cooperative, or
22 association for failure to file an annual report or pay the fee as
23 required by section 75-116 and as prescribed by commission rules and
24 regulations or for failure to register as required by section 86-125 and
25 as prescribed by commission rules and regulations. Each day during which
26 the violation continues after the commission has issued an order finding
27 that a violation has occurred constitutes a separate offense. Any party
28 aggrieved by an order of the commission under this section may appeal.
29 The appeal shall be in accordance with section 75-136.

30 (7) When any person or party is accused of any violation listed in
31 this section, the commission shall notify such person or party in writing

1 (a) setting forth the date, facts, and nature of each act or omission
2 upon which each charge of a violation is based, (b) specifically
3 identifying the particular statute, certificate, permit, rule,
4 regulation, or order purportedly violated, (c) that a hearing will be
5 held and the time, date, and place of the hearing, (d) that in addition
6 to the civil penalty, the commission may enforce additional penalties and
7 relief as provided by law, and (e) that upon failure to pay any civil
8 penalty determined by the commission, the penalty may be collected by
9 civil action in the district court of Lancaster County.

10 Sec. 14. Section 75-902, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 75-902 For purposes of the Grain Dealer Act, unless the context
13 otherwise requires:

14 (1) Commission means the Public Service Commission;

15 (2) Direct delivery grain has the same meaning as in section 88-526;

16 (3) Direct delivery obligation has the same meaning as in section
17 88-526;

18 (4)(a) (4) Grain means includes, but is not limited to, all
19 unprocessed beans, whole corn, milo and other sorghum, wheat, rye,
20 barley, oats, millet, safflower seed and processed plant pellets, alfalfa
21 pellets, and any other bulk pelleted agricultural storable commodity,
22 except grain which has been processed or packaged for distribution as
23 seed. ÷

24 (b) Grain includes all commodities described in subdivision (4)(a)
25 of this section whether grown and marketed as fungible commodities or
26 within segregated marketing channels, including, but not limited to,
27 certified organic commodities;

28 (5)(a) Grain dealer means any person, partnership, limited liability
29 company, corporation, or association that (i) buys grain from the
30 producer of the grain within this state for purposes of selling such
31 grain or (ii) acts as an employee or agent of a buyer or seller for

1 purposes of collective bargaining in the marketing of grain.

2 (b) Grain dealer does not include (i) a feeder or custom feeder of
3 livestock or poultry or (ii) a warehouse licensee under the Grain
4 Warehouse Act or a warehouse licensee under the United States Warehouse
5 Act of a warehouse located in Nebraska if the warehouse licensee does not
6 buy, sell, or transport grain other than grain that is received at its
7 licensed warehouse facilities;

8 (6) In-store transfer has the same meaning as in section 88-526;

9 (7) Post-direct delivery storage position has the same meaning as in
10 section 88-526; and

11 (8) Producer means the owner, tenant, or operator of land in this
12 state who has an interest in and receives all or part of the proceeds
13 from the sale of grain produced on that land.

14 Sec. 15. Section 75-903, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 75-903 All grain dealers doing business in this state shall be
17 licensed by the commission. If the applicant is an individual, the
18 application shall include the applicant's social security number. To
19 procure and maintain a license, each grain dealer shall:

20 (1) Pay an annual fee of one hundred dollars which shall be due on
21 or before the date established by the commission for each license. Such
22 fees shall be paid to the State Treasurer and credited to the General
23 Fund;

24 (2) File security which may be a bond issued by a corporate surety
25 company and payable to the commission, an irrevocable letter of credit,
26 or a certificate of deposit, subject to the approval of the commission,
27 for the benefit of any producer who files a valid claim arising from a
28 sale to a grain dealer. The security shall be in an amount set by the
29 commission of not less than thirty-five thousand dollars and not more
30 than one million dollars ~~the amount of thirty-five thousand dollars or~~
31 ~~seven percent of grain purchases or exchanges by the grain dealer in the~~

1 ~~grain dealer's preceding fiscal year, whichever is greater, not to exceed~~
2 ~~three hundred thousand dollars.~~ Amounts used in the calculation of the
3 security shall include all direct delivery grain purchases and exchanges
4 valued on the date delivery is made. Amounts used in the calculation of
5 the security shall not include any transactions in which direct delivery
6 grain is exchanged for a post-direct delivery storage position and the
7 post-direct delivery storage position is created by an in-store transfer
8 on the same date as the delivery of the direct delivery grain. Such
9 security shall be furnished on the condition that the licensee will pay
10 for any grain purchased upon demand, not later than fifteen days after
11 the date of the last shipment of any contract. The liability of the
12 surety shall cover purchases made by the grain dealer during the time the
13 bond is in force. A grain dealer's bond filed with the commission shall
14 be in continuous force and effect until canceled by the surety. The
15 liability of the surety on any bond required by this section shall not
16 accumulate for each successive license period during which the bond is in
17 force; and

18 (3) File a reviewed or audited fiscal year-end financial statement
19 prepared by an independent certified public accounting firm. If licensing
20 as an individual, the financial statement shall be prepared in accordance
21 with Other Comprehensive Basis of Accountancy, as filed with the board,
22 for a personal financial statement, using historical cost and accrual
23 basis of accounting. If licensing as a partnership, corporation, or
24 limited liability company, the financial statement shall be prepared in
25 accordance with accounting principles generally accepted. The financial
26 statement shall include: (a) A statement of income showing profit or
27 loss; (b) a balance sheet; (c) a statement of cash flow; (d) a statement
28 of proprietor's capital or retained earnings; (e) the volume and dollar
29 value of the grain purchases the licensee made in Nebraska during the
30 fiscal year; (f) the volume and dollar value of transactions in which
31 direct delivery grain is exchanged for a post-direct delivery storage

1 position and the post-direct delivery storage position is not created by
2 an in-store transfer on the same date as the delivery of the direct
3 delivery grain; and (g) the accounting firm's certification, assurances,
4 opinions, and comments and the notes with respect to the financial
5 statement. If the volume and dollar value of the grain purchases is not
6 reported, the grain dealer shall file the maximum grain dealer security
7 as required by the Grain Dealer Act.

8 (4) If an applicant for a grain dealer license is a wholly owned
9 subsidiary of a parent company and such a financial statement is not
10 prepared for the subsidiary, the parent company shall submit its reviewed
11 or audited fiscal year-end financial statement and shall execute an
12 unconditional guarantee agreement as prescribed by the commission.

13 Sec. 16. Section 75-903.02, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 75-903.02 For each application filed under section 75-903 after
16 January 1, 2004, one of the following primary parties shall be subject to
17 fingerprinting and a check of his or her criminal history record
18 information maintained by the Federal Bureau of Investigation through the
19 Nebraska State Patrol: (1) If the applicant is not an individual, the
20 chief executive officer, president, or general manager; or (2) if the
21 applicant is an individual, the individual. ~~If the primary party has been~~
22 ~~subject to a check of his or her criminal history record information~~
23 ~~pursuant to this section on a prior application, he or she is not subject~~
24 ~~to another such check upon a subsequent application.~~ If a primary party
25 has been subject to a check of his or her criminal history record
26 information pursuant to another law, the commission may waive such
27 requirement under this section. A primary party shall furnish to the
28 Nebraska State Patrol a full set of fingerprints to enable a criminal
29 background investigation to be conducted. The primary party shall request
30 that the Nebraska State Patrol submit the fingerprints to the Federal
31 Bureau of Investigation for a national criminal history record check. The

1 primary party shall pay the actual cost, if any, of the fingerprinting
2 and check of his or her criminal history record information. The primary
3 party shall authorize release of the national criminal history record
4 check to the commission. The criminal history record information check
5 shall be completed within ninety days after the date the application for
6 a license is received in the commission's office, and if not, the
7 application shall be returned to the applicant. The commission shall deny
8 a grain dealer license to any applicant whose primary party has been
9 convicted of a felony financial crime.

10 Sec. 17. Section 81-2,239, Revised Statutes Cumulative Supplement,
11 2022, is amended to read:

12 81-2,239 Sections 81-2,239 to 81-2,292 and sections 21, 22, 25, 26,
13 30, 31, and 32 of this act and the provisions of the Food Code and the
14 Current Good Manufacturing Practice In Manufacturing, Packing, or Holding
15 Human Food adopted by reference in sections 81-2,257.01 and 81-2,259,
16 shall be known and may be cited as the Nebraska Pure Food Act.

17 Sec. 18. Section 81-2,240, Revised Statutes Cumulative Supplement,
18 2022, is amended to read:

19 81-2,240 For purposes of the Nebraska Pure Food Act, unless the
20 context otherwise requires, the definitions found in sections 81-2,241 to
21 81-2,254 and sections 21, 22, 25, and 26 of this act shall be used. In
22 addition, the definitions found in the code and practice adopted by
23 reference in sections 81-2,257.01 and 81-2,259 shall be used.

24 Sec. 19. Section 81-2,244.01, Revised Statutes Cumulative
25 Supplement, 2022, is amended to read:

26 81-2,244.01 Food Code shall mean the 2017 Recommendations of the
27 United States Public Health Service, Food and Drug Administration, except
28 the definitions of adulterated food and food establishment, person in
29 charge, regulatory authority, and sections 2-102.12, 2-102.20(B),
30 2-103.11(I) and (M), 3-301.11(B), (C), (D), and (E), 3-501.16,
31 4-301.12(C)(5), (D), and (E), 4-603.16(C), 4-802.11(C), ~~5-104.11,~~ 8-101,

1 8-102, 8-201.11, 8-201.12, 8-202.10 through 8-304.20, 8-401.10(B)(2),
2 8-402.20 through 8-403.20, 8-403.50 through 8-404.12, and 8-405.20(B).
3 The term Food Code does not include the annexes of such federal
4 recommendations.

5 Sec. 20. Section 81-2,245.01, Revised Statutes Cumulative
6 Supplement, 2022, is amended to read:

7 81-2,245.01 Food establishment shall mean an operation that stores,
8 prepares, packages, serves, sells, vends, delivers, or otherwise provides
9 food for human consumption. The term does not include:

10 (1) An establishment or vending machine operation that offers only
11 prepackaged soft drinks, carbonated or noncarbonated; canned or bottled
12 fruit and vegetable juices; prepackaged ice; candy; chewing gum; potato
13 or corn chips; pretzels; cheese puffs and curls; crackers; popped
14 popcorn; nuts and edible seeds; and cookies, cakes, pies, and other
15 pastries, that are not time/temperature control for safety foods;

16 (2) A produce stand that only offers whole, uncut fresh fruits and
17 vegetables;

18 (3) A food processing plant;

19 (4) A salvage operation;

20 (5) A private home where food is prepared or served for personal
21 use, a small day care in the home, or a hunting lodge, guest ranch, or
22 other operation where no more than ten paying guests eat meals in the
23 home;

24 (6) A private home or other area where food that is not time/
25 temperature control for safety food is prepared for sale or service at a
26 religious, charitable, or fraternal organization's bake sale or similar
27 function;

28 (7) A private home or other area where food that is not time/
29 temperature control for safety food is prepared for sale directly to the
30 consumer including, but not limited to, at a farmers market, fair,
31 festival, craft show, or other public event or for pick up at or delivery

1 from such private home or other area, if:

2 (a) The consumer is informed by a clearly visible notification that
3 the food was prepared in a kitchen that is not subject to regulation and
4 inspection by the regulatory authority and may contain allergens. For
5 sales conducted at a farmers market, fair, festival, craft show, or other
6 public event, such notification shall be at the sale location. For sales
7 conducted for pick up at or delivery from a private home or other area,
8 such notification shall be at such private home or other area, on the
9 producer's website if one exists, and in any print, radio, television, or
10 Internet advertisement for such sales;

11 (b) The name and address of the producer is provided to the consumer
12 on the package or container label;

13 (c) Product delivery is made directly from the producer to the
14 actual customer in a person-to-person transaction or by United States
15 mail or a commercial mail delivery service;

16 (d) The producer follows any food safety and handling guidelines for
17 sale at a farmers market, fair, festival, craft show, or other public
18 event required by the county, city, or village where the food is sold;

19 (e) Prior to conducting any food sales, the producer, other than one
20 selling directly to the consumer at a farmers market, has successfully
21 completed (i) a nationally accredited food safety and handling education
22 course that covers topics such as food safety issues, regulations, and
23 techniques to maintain a food-safe environment, ~~or~~ (ii) a certified food
24 safety and handling training course offered at a culinary school or as
25 required by a county, city, or village to obtain a food handler permit,
26 or (iii) a food safety and handling education course approved by the
27 department;

28 (f) The producer, if using private well water to produce food sold
29 under this subdivision (7), has had such well water tested for
30 contamination by nitrates or bacteria prior to conducting any food
31 production and sales; and

1 (g) The producer complies with section 81-2,280;

2 (8) A private home or other area where food is prepared for
3 distribution at a fundraising event for a charitable purpose if the
4 consumer is informed by a clearly visible placard at the serving location
5 that the food was prepared in a kitchen that is not subject to regulation
6 and inspection by the regulatory authority. This subdivision does not
7 apply to a caterer or other establishment providing food for the event if
8 the caterer or establishment receives compensation for providing the
9 food;

10 (9) The location where food prepared by a caterer is served so long
11 as the caterer only minimally handles the food at the serving location;

12 (10) Educational institutions, health care facilities, nursing
13 homes, and governmental organizations which are inspected by a state
14 agency or a political subdivision other than the regulatory authority for
15 sanitation in the food preparation areas;

16 (11) A pharmacy as defined in section 71-425 if the pharmacy only
17 sells prepackaged pharmaceutical, medicinal, or health supplement foods
18 that are not time/temperature control for safety or foods described in
19 subdivision (1) of this section; and

20 (12) An establishment which is not a commercial food establishment
21 and which sells only commercially packaged foods that are not time/
22 temperature control for safety foods.

23 Sec. 21. Food handling activity shall mean food service, food
24 catering, conducting retail food sales, or operating a commissary, mobile
25 food unit, food pushcart, or food vending machine.

26 Sec. 22. Guidance document has the same meaning as in section
27 84-901.

28 Sec. 23. Section 81-2,248, Revised Statutes Cumulative Supplement,
29 2022, is amended to read:

30 81-2,248 Itinerant food vendor shall mean a temporary food
31 establishment or shall mean a person that sells prepackaged, time/

1 temperature control for safety food from an approved source at a
2 nonpermanent location such as a farmers market, craft show, or county
3 fair.

4 Sec. 24. Section 81-2,251.03, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 81-2,251.03 Limited food service establishment shall mean a food
7 ~~shall mean an~~ establishment that serves only alcoholic beverages or
8 serves or otherwise provides only snack items or commercially prepared
9 and wrapped foods that require little or no preparation.

10 Sec. 25. Limited retail food establishment shall mean a food
11 establishment where food offered to the consumer is intended for off-
12 premises consumption and where there are no meat processing or produce
13 processing areas.

14 Sec. 26. Secondary food handling activity shall mean operating
15 mobile food units, food pushcarts, or food vending machines or operating
16 any other type of food handling activity as not the primary food handling
17 activity.

18 Sec. 27. Section 81-2,263, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 81-2,263 If there is an inconsistency between sections 81-2,239 to
21 81-2,292 and sections 21, 22, 25, 26, 30, 31, and 32 of this act and any
22 code adopted by reference, the requirements of the sections shall
23 control.

24 Sec. 28. Section 81-2,270, Revised Statutes Cumulative Supplement,
25 2022, is amended to read:

26 81-2,270 (1) No person shall operate without a valid permit:

27 (a) A food establishment conducting those food handling activities
28 authorized by such permit;

29 (b) A a food processing plant; or

30 (c) A a salvage operation, ~~without a valid permit which sets forth~~
31 ~~the types of operation occurring within the establishment.~~

1 (2) Application for a permit shall be made to the director on forms
2 prescribed and furnished by the department. Such application shall
3 include (a) the applicant's full name and mailing address and ~~,~~ the names
4 and addresses of any partners, members, or corporate officers, (b) the
5 ~~name and address of the person authorized by the applicant to receive the~~
6 ~~notices and orders of the department as provided in the Nebraska Pure~~
7 ~~Food Act,~~ whether the applicant is an individual, partnership, limited
8 liability company, corporation, or other legal entity, (c) the location
9 and type of proposed establishment or operation, and (d) the signature of
10 the applicant. Application for a permit shall be made prior to the
11 operation of a food establishment, food processing plant, or salvage
12 operation. The application shall be accompanied by an initial permit fee
13 and an initial inspection fee in the same amount as the annual inspection
14 fee if inspections are required to be done by the department. If any the
15 food establishment, food processing plant, or salvage operation is
16 operating without ~~has been in operation prior to applying for a valid~~
17 ~~permit or notifying the regulatory authority, such establishment, plant,~~
18 ~~or operation~~ the applicant shall pay an additional fee of sixty dollars
19 prior to the issuance of a valid permit.

20 (3) Payment of the initial permit fee, the initial inspection fee,
21 and the fee for operating without ~~failing to apply for a valid permit~~
22 ~~prior to operation~~ shall not preclude payment of the annual inspection
23 fees due on August 1 of each year. Except as provided in subsections (7)
24 through (10) of this section and subsection (2) of section 81-2,281, a
25 permitholder shall pay annual inspection fees on or before August 1 of
26 each year regardless of when the initial permit was obtained.

27 (4)(a) The director shall set the initial permit fee and the annual
28 inspection fees on or before July 1 of each fiscal year to meet the
29 criteria in this subsection. The director may raise or lower the fees
30 each year, but the fees shall not exceed the maximum fees listed in
31 subdivision (4)(b) of this section. The director shall determine the fees

1 based on estimated annual revenue and fiscal year-end cash fund balance
 2 as follows:

3 (i) The estimated annual revenue shall not be greater than one
 4 hundred seven percent of program cash fund appropriations allocated for
 5 the Nebraska Pure Food Act;

6 (ii) The estimated fiscal year-end cash fund balance shall not be
 7 greater than seventeen percent of program cash fund appropriations
 8 allocated for the act; and

9 (iii) All fee increases or decreases shall be equally distributed
 10 between all categories.

11 (b) The maximum fees are:

| <u>Permit Type</u> | <u>Base</u> | <u>First</u> | <u>Food</u> | <u>Secondary</u> | <u>Secondary</u> |
|------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| | | | | <u>or</u> | <u>No Food</u> |
| | <u>Initial</u> | <u>Annual</u> | <u>Food</u> | <u>Preparation</u> | <u>Preparation</u> |
| | <u>Permit</u> | <u>Inspection</u> | <u>Preparation</u> | <u>Area</u> | <u>Area</u> |
| | <u>Fee</u> | <u>Fee</u> | <u>Fee</u> | <u>Annual</u> | <u>Units</u> |
| | | | <u>Fee</u> | <u>Inspection</u> | <u>Annual</u> |
| | | | | <u>Fee</u> | <u>Inspection</u> |
| | | | | <u>(per area)</u> | <u>Fee</u> |
| <u>Limited Retail</u> | | | | | |
| <u>Food Establishment</u> | <u>\$86.19</u> | <u>\$86.19</u> | <u>\$43.09</u> | <u>N/A</u> | |
| Convenience Store | \$86.19 | \$86.19 | \$43.09 | N/A | |
| Itinerant Food Vendor | \$86.19 | \$86.19 | \$43.09 | N/A | |
| Licensed Beverage | | | | | |
| Establishment | \$86.19 | \$86.19 | \$43.09 | N/A | |
| Limited Food Service | | | | | |
| Establishment | \$86.19 | \$86.19 | \$43.09 | N/A | |
| Temporary Food | | | | | |

| | | | | | |
|----|--------------------------|---------|----------|---------|---------|
| 1 | Establishment | \$86.19 | \$86.19 | \$43.09 | N/A |
| 2 | Food Delivery Service | \$86.19 | N/A | N/A | \$17.23 |
| 3 | Mobile Food Unit | | | | |
| 4 | (for each unit) | \$86.19 | N/A | N/A | \$43.09 |
| 5 | Pushcart (for each unit) | \$86.19 | N/A | N/A | \$17.23 |
| 6 | Vending Machine | | | | |
| 7 | Operations: | \$86.19 | | | |
| 8 | One to ten units | | N/A | N/A | \$17.23 |
| 9 | Eleven to twenty units | | N/A | N/A | \$34.46 |
| 10 | Twenty-one to thirty | | | | |
| 11 | units | | N/A | N/A | \$51.69 |
| 12 | Thirty-one to forty | | | | |
| 13 | units | | N/A | N/A | \$68.92 |
| 14 | Over forty units | | N/A | N/A | \$86.15 |
| 15 | Food Processing Plant | \$86.19 | \$120.64 | \$43.09 | N/A |
| 16 | Salvage Operation | \$86.19 | \$120.64 | \$43.09 | N/A |
| 17 | Commissary | \$86.19 | \$120.64 | \$43.09 | N/A |
| 18 | All Other Food | | | | |
| 19 | Establishments | \$86.19 | \$120.64 | \$43.09 | N/A |

20 (5) For If a food establishment, a base inspection fee includes one
 21 food preparation area and is engaged in more than one food handling
 22 activity listed in subsection (4) of this section, the inspection fee
 23 charged shall be based upon the primary food handling activity conducted
 24 within the food establishment as determined by the department. The annual
 25 inspection fee shall also include and any fees assessed for each
 26 additional food preparation area within the primary establishment and any
 27 applicable secondary food handling activity as determined by the
 28 department. Any mobile food establishment that does not return to a
 29 commissary each day shall obtain a separate permit and pay the base
 30 inspection fee for the mobile food establishment.

1 (6) If a person fails to pay the inspection fee for more than one
2 month after the fee is due, such person shall pay a late fee equal to
3 fifty percent of the total fee for the first month that the fee is late
4 and one hundred percent for the second month that the fee is late. The
5 purpose of the late fee is to cover the administrative costs associated
6 with collecting fees. All money collected as a late fee shall be remitted
7 to the State Treasurer for credit to the Pure Food Cash Fund. If the
8 total fees due remain unpaid ninety days after the original due date, the
9 permit shall no longer be valid.

10 (7) An educational institution, health care facility, nursing home,
11 or governmental organization operating any type of food establishment,
12 other than a mobile food unit or pushcart, is exempt from the
13 requirements in subsections (1) through (6) of this section.

14 (8) A food establishment which produces eggs and only stores,
15 packages, sells, delivers, or otherwise provides for human consumption
16 the eggs it produces, or only stores, packages, sells, delivers, or
17 otherwise provides for human consumption eggs produced from no more than
18 four producers at the same time, is exempt from the requirements of
19 subsections (1) through (6) of this section.

20 (9) A food establishment or food processing plant holding a permit
21 under the Nebraska Milk Act is exempt from the requirements of
22 subsections (1) through (6) of this section.

23 (10) A single event food vendor or a religious, charitable, or
24 fraternal organization operating any type of temporary food
25 establishment, mobile food unit, or pushcart is exempt from the
26 requirements of subsections (1) through (6) of this section. Any such
27 organization operating any nontemporary food establishment prior to July
28 1, 1985, is exempt from the requirements of subsection (2) of this
29 section.

30 (11) A permitholder may sell food prepared by the permitholder at
31 the location of another permitholder without obtaining a separate permit

1 at such location so long as the permitholder preparing the food is not a
2 food processing plant. Both the permitholder preparing the food and the
3 permitholder selling the food are responsible for compliance with the
4 Nebraska Pure Food Act.

5 Sec. 29. Section 81-2,271, Revised Statutes Cumulative Supplement,
6 2022, is amended to read:

7 81-2,271 (1) The permit required by section 81-2,270 shall be posted
8 in a conspicuous manner at the food establishment, each location where
9 food handling activity included under a permit is occurring, food
10 processing plant, or salvage operation location in the food
11 establishment, food processing plant, or salvage operation which is
12 conspicuous to the public. A salvage operation shall also have a copy of
13 the permit in each vehicle. For a food establishment that does not have a
14 permanent location delivery service, the permit location shall be a
15 permanent address where the permitholder may be contacted.

16 (2) The permit is not transferable to any other person or location.
17 Any permit issued lapses automatically upon a change of ownership or
18 location except as provided in subsection (3) of this section. The
19 permitholder shall notify the department in writing at least thirty days
20 prior to any change in ownership, name, or address. ~~The permitholder~~
21 ~~shall notify the department in writing before there is a change of the~~
22 ~~name or address of the person authorized to receive the notices and~~
23 ~~orders of the department.~~ When an establishment is to be permanently
24 closed, the permitholder shall return the permit to the department within
25 one week after the closing.

26 (3) A permitholder shall provide information regarding the current
27 location of any food handling activity included under the permitholder's
28 permit A mobile food unit, pushcart, or vending machine may be moved if
29 the permitholder is able to provide the location of such unit, pushcart,
30 or machine to the regulatory authority upon request and the person
31 authorized by the permitholder to receive notices and orders of the

1 ~~department maintains a permanent mailing address on file with the~~
2 ~~department. A food delivery service shall upon request provide the~~
3 ~~department with information regarding the location of all conveyances it~~
4 ~~controls.~~

5 (4) Every mobile food unit or pushcart operator shall have a copy of
6 ~~the their~~ permit to operate available at the mobile food unit or pushcart
7 when in operation.

8 Sec. 30. (1) A political subdivision acting as a regulatory
9 authority may enter into an agreement under the Interlocal Cooperation
10 Act with other public agencies to grant and provide reciprocity for local
11 licensing of mobile food establishments for purposes of regulating food
12 safety and handling.

13 (2) On or before December 1, 2023, a political subdivision acting as
14 a regulatory authority that is eligible to participate in an agreement
15 under this section shall submit a report electronically to the
16 Legislature. Such report shall contain the following information:

17 (a) A description of any reciprocity agreement entered into pursuant
18 to this section; or

19 (b) If a reciprocity agreement has not been entered into pursuant to
20 this section, a summary of actions taken to develop such an agreement and
21 a description of any impediments to such an agreement.

22 Sec. 31. (1) For purposes of this section, city means a city of the
23 first class or a city of the second class.

24 (2) The department shall establish and maintain the Mobile Food
25 Establishment Ordinance Registry. The registry shall be made available
26 for review by the public on the department's website. The purpose of the
27 registry is to record in a central location the municipal ordinances used
28 to regulate mobile food establishments.

29 (3) Each city shall participate in the registry. Except as provided
30 in subsection (4) of this section, each city shall provide the department
31 with the following information for the registry:

1 (a) The name and address of each person responsible for regulating
2 mobile food establishment operations;

3 (b) A sample copy of any form that is required to be submitted in
4 order for the mobile food establishment to operate in the city;

5 (c) A complete electronic record of the ordinances used to regulate
6 mobile food establishments; and

7 (d) Any other information the department deems necessary.

8 (4) Any city that does not regulate the operation of mobile food
9 establishments in any way shall submit to the department for publication
10 on the registry a written statement confirming that the city does not
11 regulate the operation of mobile food establishments.

12 (5) To ensure an accurate and updated registry, each city shall:

13 (a) Upon a request by the department, make available to the
14 department all information required pursuant to this section; and

15 (b) Beginning in 2023, by December 31 of each calendar year notify
16 the department of any new or modified ordinance adopted within such
17 calendar year regulating mobile food establishments.

18 (6) The department may adopt and promulgate rules and regulations to
19 carry out this section.

20 Sec. 32. The department shall develop and make available to the
21 public a guidance document for mobile food establishment operators. The
22 guidance document shall describe food establishment permit requirements
23 applicable to mobile food establishments, including permit requirements
24 applicable to reciprocity agreements between participating regulatory
25 authorities under section 30 of this act.

26 Sec. 33. Section 81-2,281, Revised Statutes Cumulative Supplement,
27 2022, is amended to read:

28 81-2,281 (1) The department shall enforce the Nebraska Pure Food Act
29 and any rule or regulation adopted and promulgated pursuant to such act.
30 The department may:

31 (a) Enter at reasonable times and in a reasonable manner, without

1 being subject to any action for trespass or damages if reasonable care is
2 exercised, any food establishment, food processing plant, or salvage
3 operation to inspect all food, structures, vehicles, equipment, packing
4 materials, containers, records, and labels on such property. The
5 department may inspect and examine all records and property relating to
6 compliance with the Nebraska Pure Food Act. Such records and property
7 shall be made available to the department for review at all reasonable
8 times;

9 (b) In a reasonable manner, hold for inspection and take samples of
10 any food which may not be in compliance with the Nebraska Pure Food Act;

11 (c) Inspect at any time or place food that is being shipped into or
12 through the state and take any enforcement action authorized under the
13 Nebraska Pure Food Act; and

14 (d) Obtain an inspection warrant in the manner prescribed in
15 sections 29-830 to 29-835 from a court of record if any person refuses to
16 allow the department to inspect pursuant to this subsection.

17 (2) In addition to its authority provided in subsection (1) of this
18 section, the department may contract with any political subdivision or
19 state agency it deems qualified to conduct any or all regulatory
20 functions authorized pursuant to the act except those functions relating
21 to the issuance, suspension, or revocation of permits or any order of
22 probation. Holders of permits issued pursuant to the act who are
23 regularly inspected by political subdivisions under contract with the
24 department shall be exempt from the inspection fees prescribed in section
25 81-2,270 if such holders pay license or inspection fees to the political
26 subdivision performing the inspections.

27 (3) It shall be the responsibility of the regulatory authority to
28 inspect food establishments and food processing plants as often as
29 required by the act. An inspection of a salvage operation shall be
30 performed at least once every three hundred sixty-five days of operation.
31 Additional inspections shall be performed as often as is necessary for

1 the efficient and effective enforcement of the act.

2 (4) All inspections conducted pursuant to the act shall be performed
3 by persons who (a) meet the requirements of section 8-402.10 of the Food
4 Code and, within thirty-six months after being hired to conduct such
5 inspections, pass a certified professional food safety credential
6 examination approved by the department that meets the requirements of
7 Option 2 of Standard 2, Trained Regulatory Staff, of the 2022 United
8 States Food and Drug Administration's Voluntary National Retail Food
9 Regulatory Program Standards or (b) are provisional environmental health
10 specialists or registered environmental health specialists as defined in
11 section 38-1305 or 38-1306.

12 (5) Duly authorized personnel of the regulatory authority after
13 showing proper identification shall have access at all reasonable times
14 to food establishments, food processing plants, or salvage operations
15 required by the act to obtain a permit to perform authorized regulatory
16 functions. Such functions shall include, but not be limited to,
17 inspections, checking records maintained in the establishment or other
18 locations to obtain information pertaining to food and supplies
19 purchased, received, used, sold, or distributed, copying and
20 photographing violative conditions, and examining and sampling food. When
21 samples are taken, the inspectors shall pay or offer to pay for samples
22 taken. The authorized personnel shall also have access to the records of
23 salvage operations pertaining to distressed salvageable and salvaged
24 merchandise purchased, received, used, sold, or distributed.

25 (6) Regulatory activities performed by a political subdivision or
26 state agency under contract shall conform with the provisions of the act
27 and such activities shall have the same effect as those performed by the
28 department. Any interference with the regulatory authority's duty to
29 inspect shall be an interference with the department's duties for the
30 purposes of section 81-2,273.

31 Sec. 34. Section 88-526, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 88-526 As used in the Grain Warehouse Act, unless the context
3 otherwise requires:

4 (1) Commission means the Public Service Commission;

5 (2) Direct delivery grain means all grain that is bought, sold, or
6 transported in the name of a warehouse licensee, other than grain that is
7 received at the licensed warehouse facilities;

8 (3) Direct delivery obligation means the obligation of a warehouse
9 licensee or grain dealer to transfer title to warehouse-owned grain to a
10 producer by an in-store transfer upon the delivery of direct delivery
11 grain. A direct delivery obligation is treated as a grain dealer
12 obligation until such time as it is satisfied by an in-store transfer;

13 (4)(a) (4) Grain means wheat, corn, oats, soybeans, barley, rye,
14 flax, or sorghum which has not been processed or packaged for the purpose
15 of distribution as seed, including, but not limited to, edible beans,
16 whole corn plant pellets, alfalfa pellets, millet, sunflower seed,
17 safflower seed, and any other bulk pelleted agricultural storable
18 commodity. ÷

19 (b) Grain includes all commodities described in subdivision (4)(a)
20 of this section whether grown and marketed as fungible commodities or
21 grown and marketed within segregated marketing channels, including, but
22 not limited to, certified organic commodities;

23 (5) Grain dealer has the same meaning as in section 75-902;

24 (6) Grain in storage means any grain which has been received at any
25 warehouse and to which title has not been transferred to the warehouse
26 operator ~~warehouseman~~ by signed contract or priced scale ticket;

27 (7) In-store transfer means a method by which a warehouse licensee
28 transfers title to warehouse-owned grain to any person in satisfaction of
29 a direct delivery obligation between the warehouse licensee or grain
30 dealer and the producer, and the grain remains in the warehouse;

31 (8) Post-direct delivery storage position means a storage position

1 acquired through an in-store transfer in satisfaction of a direct
2 delivery obligation;

3 (9) Warehouse means any grain elevator, mill, grist mill, building,
4 or receptacle in which grain is held in storage for more than ten
5 consecutive days;

6 (10) Warehouse licensee means any warehouse operator ~~warehouseman~~
7 who is licensed pursuant to the Grain Warehouse Act; and

8 (11) Warehouse operator ~~Warehouseman~~ means any person, partnership,
9 limited liability company, corporation, or association who (a) receives
10 grain for storage or stores or offers to store grain for legal
11 consideration for another person, partnership, limited liability company,
12 corporation, or association in a warehouse where delivered or (b)
13 receives grain for shipment to other points for storage, consignment, or
14 resale either in or out of this state.

15 Sec. 35. Section 88-527, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 88-527 (1) No person shall ~~operate a warehouse nor~~ act as a
18 warehouse operator ~~warehouseman~~ without a license issued pursuant to the
19 Grain Warehouse Act. Warehouses, except warehouses which are licensed
20 under the United States Warehouse Act, shall be licensed and regulated by
21 the commission. If the applicant is an individual, the application shall
22 include the applicant's social security number. Such warehouses shall be
23 inspected by the commission at least once every twelve months.

24 (2) If the commission determines that additional examinations are
25 necessary after a regular examination is completed at a warehouse, the
26 commission may charge such warehouse for the cost of the additional
27 examinations according to the commission's fee schedule. Warehouses shall
28 only be charged if such examinations are for reasons of irregularities
29 from the previous examination or if financial conditions warrant
30 additional examinations.

31 (3) The commission may make available to the United States

1 Government or any of its agencies, including the Commodity Credit
2 Corporation, the results of inspections made and inspection reports
3 submitted by employees of the commission upon payment of such fees as may
4 be determined by the commission. The fees shall cover the actual cost of
5 the services rendered in regard to providing the information.

6 (4) The commission may charge for inspections conducted at the
7 request of a warehouse licensee.

8 (5) The commission may assess a surveillance fee against the assets
9 of a warehouse licensee for actual expenses incurred by the commission in
10 suspending a license or terminating the operations of a warehouse
11 licensee. The commission may enter into contracts for such purpose and
12 shall keep a record of all surveillance fees collected. All surveillance
13 fees collected by the commission shall be remitted to the State Treasurer
14 for credit to the Nebraska Grain Warehouse Surveillance Cash Fund.

15 (6) The commission may enter into agreements and contracts with
16 regulators in states which border Nebraska for the purpose of licensing
17 or examining any public grain warehouse operator ~~warehouseman~~ which
18 operates facilities in such states. The commission shall assume all
19 jurisdiction over any warehouse operator ~~warehouseman~~ headquartered in
20 Nebraska regarding his or her warehouse activity. A warehouse operator
21 ~~warehouseman~~ headquartered and licensed in another state which acquires
22 facilities in Nebraska is under the jurisdiction of the headquarter state
23 under the terms of such agreement or contract.

24 Sec. 36. Section 88-528.01, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 88-528.01 For each application filed under section 88-528—after
27 ~~January 1, 2004~~, one of the following primary parties shall be subject to
28 fingerprinting and a check of his or her criminal history record
29 information maintained by the Federal Bureau of Investigation through the
30 Nebraska State Patrol: (1) If the applicant is not an individual, the
31 chief executive officer, president, or general manager; or (2) if the

1 applicant is an individual, the individual. ~~If the primary party has been~~
2 ~~subject to a check of his or her criminal history record information~~
3 ~~pursuant to this section on a prior application, he or she is not subject~~
4 ~~to another such check upon a subsequent application.~~ If a primary party
5 has been subject to a check of his or her criminal history record
6 information pursuant to another law, the commission may waive such
7 requirement under this section. A primary party shall furnish to the
8 Nebraska State Patrol a full set of fingerprints to enable a criminal
9 background investigation to be conducted. The primary party shall request
10 that the Nebraska State Patrol submit the fingerprints to the Federal
11 Bureau of Investigation for a national criminal history record check. The
12 primary party shall pay the actual cost, if any, of the fingerprinting
13 and check of his or her criminal history record information. The primary
14 party shall authorize release of the national criminal history record
15 check to the commission. The criminal history record information check
16 shall be completed within ninety days after the date the application for
17 a license is received in the commission's office, and if not, the
18 application shall be returned to the applicant. The commission shall deny
19 a warehouse license to any applicant whose primary party has been
20 convicted of a felony financial crime.

21 Sec. 37. Section 88-530, Revised Statutes Cumulative Supplement,
22 2022, is amended to read:

23 88-530 Each applicant shall show sufficient net worth or
24 stockholders' equity to conform with the financial requirements which the
25 commission shall establish by the adoption and promulgation of rules and
26 regulations. Applicants shall file with the commission security in the
27 form of a bond, a certificate of deposit, an irrevocable letter of
28 credit, United States bonds or treasury notes, or other public debt
29 obligations of the United States which are unconditionally guaranteed as
30 to both principal and interest by the United States in such sum as the
31 commission may require and in the form and of the kind prescribed by the

1 commission. The security shall be in an amount set by the commission
2 pursuant to rules and regulations, but shall not be less than twenty-five
3 thousand dollars. The security shall run to the State of Nebraska for the
4 benefit of each person who stores grain in such warehouse and of each
5 person who, not more than five business days prior to the cutoff date of
6 operation of the warehouse, owned and sold grain stored in the warehouse
7 and had not received payment from the warehouse licensee for such grain,
8 but shall not include grain sold by signed contract or priced scale
9 ticket. The cutoff date of operation of the warehouse shall be the date
10 the commission officially closes the warehouse. The security shall be
11 conditioned upon (1) the warehouse licensee carrying combustion, fire,
12 lightning, and tornado insurance sufficient to cover loss upon all stored
13 grain in such warehouse, (2) the delivery of the grain upon surrender of
14 the warehouse receipt, and (3) the faithful performance by the warehouse
15 licensee of all provisions of law relating to the storage of grain by
16 such warehouse licensee and rules and regulations adopted and promulgated
17 by the commission. The commission may require increases in the amount of
18 the security from time to time as it may deem necessary for the
19 protection of the storers. For an applicant who has filed a reviewed
20 fiscal year-end financial statement pursuant to section 88-528, the
21 commission shall require additional security in an amount set by the
22 commission pursuant to rules and regulations, which shall not be less
23 than twenty-five thousand dollars and not more than one million five
24 ~~hundred thousand~~ dollars. The surety on a bond shall be a surety company
25 licensed by the Department of Insurance. An irrevocable letter of credit
26 or certificate of deposit shall be issued by a federally insured
27 depository institution.

28 The security shall particularly describe the warehouse intended to
29 be covered by the security. The liability of the surety on a bond shall
30 not accumulate for each successive license period which the bond covers.
31 The liability of the surety shall be limited to the amount stated on the

1 bond or on an appropriate rider or endorsement to the bond.

2 Sec. 38. Section 88-541, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 88-541 (1) Each warehouse licensee shall file with the commission a
5 schedule of the licensee's storage rates and charges existing as of the
6 date of filing, and each applicant for a warehouse license shall file
7 with the commission a schedule of the applicant's storage rates and
8 charges existing on the date the application is filed. A warehouse
9 licensee shall post the filed schedule of rates and charges on signage
10 issued by the commission in a conspicuous place at the licensee's
11 warehouse location. Such rates and charges shall be full compensation for
12 receiving, handling, storing, delivering, and insuring grain.

13 (2) A warehouse licensee may increase or decrease such rates and
14 charges by (a) filing notice of such change of rates and charges with the
15 commission and also sending such notice to all grain owners of record not
16 less than thirty days prior to such change of rates and charges and (b)
17 posting notice of such change of rates and charges on signage issued by
18 the commission in a conspicuous place at the warehouse licensee's
19 warehouse. The new rates and charges shall be charged on all grain in
20 storage at the time of, and all grain received for storage after, the
21 effective date of the change of rates and charges. Not less than once
22 each year, the commission shall by order fix reasonable storage rates,
23 and no warehouse licensee shall charge a lesser or greater rate, except
24 upon application to and a hearing before the commission. If, after a
25 hearing, the commission finds that a lesser or greater rate should be
26 ordered, it shall enter a supplemental order fixing a different rate for
27 such applicant. Such charges shall be full compensation for the
28 receiving, handling, storing, delivering, and insuring of grain.

29 (3) No discrimination shall be made between different customers by
30 any state-licensed grain warehouse either in facilities, rates, charges,
31 or handling of any grain, except that members of a cooperative may be

1 given preference in storage facilities in warehouses of the cooperative.
2 The rates charged to any governmental agency shall be exempt from
3 commission regulation.

4 Sec. 39. Section 88-549, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 88-549 (1) At least once each calendar year and not later than one
7 year from the date of receipt of the previous written notice, each
8 warehouse licensee shall send written notice to each person who stores
9 grain in such warehouse at such person's last-known address specifying
10 the type and amount of grain in storage, the location at which the grain
11 is being stored, and the current rate of storage.

12 (2) A warehouse licensee shall not charge any storage rates and
13 charges other than or in addition to the schedule of storage rates and
14 charges duly filed and posted pursuant to section 88-541.

15 (3) Any warehouse licensee who violates subsection (1) or (2) of
16 this section shall be guilty of a Class V misdemeanor.

17 Sec. 40. Original sections 2-503, 2-504, 2-505, 2-506, 2-508,
18 2-509, 2-510, 2-511, 2-514, 2-515, 2-517, 75-902, 75-903, 75-903.02,
19 81-2,251.03, 88-526, 88-527, 88-528.01, 88-541, and 88-549, Reissue
20 Revised Statutes of Nebraska, and sections 28-401, 75-156, 81-2,239,
21 81-2,240, 81-2,244.01, 81-2,245.01, 81-2,248, 81-2,263, 81-2,270,
22 81-2,271, 81-2,281, and 88-530, Revised Statutes Cumulative Supplement,
23 2022, are repealed.

24 Sec. 41. The following sections are outright repealed: Sections
25 2-5701, 81-2,242.03, and 81-2,251.02, Reissue Revised Statutes of
26 Nebraska, and sections 81-2,245, 81-2,251.01, and 81-2,272.31, Revised
27 Statutes Cumulative Supplement, 2022.