A BILL FOR AN ACT relating to the Nebraska Hemp Farming Act; to amend sections 2-503, 2-504, 2-505, 2-506, 2-508, 2-509, 2-510, 2-511, 2-514, 2-515, and 2-517, Reissue Revised Statutes of Nebraska, and section 28-401, Revised Statutes Cumulative Supplement, 2022; to change and update federal references; to define a term; to eliminate obsolete provisions; to change provisions relating to the state plan for regulation of hemp and rules and regulations, fees, duties, violations, and testing and transporting of hemp; to provide for remediation of certain hemp; to change a meeting requirement for the Nebraska Hemp Commission; to harmonize provisions; to repeal the original sections; to outright repeal section 2-5701, Revised Statutes Cumulative Supplement, 2022; and to declare an emergency.
Section 1. Section 2-503, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

(6) Commission means the Nebraska Hemp Commission;

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

(8) Cultivator means a person who cultivates hemp;

(9) Department means the Department of Agriculture;

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

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

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

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

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

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

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

(17) Measurement of uncertainty has the same meaning as in 7 C.F.R.
part 990 990.1, as such part section existed on January 1, 2023 2020;

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

(19) Postsecondary institution means a postsecondary institution as
defined in section 85-2403 that also meets the requirements of 20 U.S.C.
(20) Process or processing means converting hemp plants or plant parts into a marketable form;

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

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

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

(24) (23) THC means tetrahydrocannabinol; and

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

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

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

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

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

(2) The department shall establish, operate, and administer a program to license and regulate cultivators, processor-handlers, and brokers that meets the requirements of the federal Agriculture Improvement Act of 2018 and the Nebraska Hemp Farming Act.

(3) The director may alter or amend the state plan as provided under section 2-516 and the department may adopt and promulgate rules and regulations to implement the Nebraska Hemp Farming Act and administer programs, including, but not limited to, the following:
(a) Practices to maintain relevant information regarding land where hemp is cultivated, handled, or processed in the state, including a legal description of such land, for a period of not less than three calendar years;

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

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

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

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

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

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

(h) Developing a bill of lading form for use by a person transporting hemp as provided in section 28-476. Such bill of lading shall, at a minimum:

(i) Identify the transporting person;

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

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

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

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

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

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

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

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

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

(b) If the applicant is an entity and not an individual, (i) the name of the applicant, mailing address, telephone number, and valid email address, (ii) the full name of each officer, director, partner, member, or owner owning in excess of ten percent of equity or stock in such entity, (iii) the full name of each key participant as defined in 7 C.F.R. part 990, as such part existed on January 1, 2023 990.1, and (iv) the birthdate, title, mailing address, telephone number, and valid email address.
address of each such person or key participant;

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

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

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

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

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

(5) After the department receives approval by the United States Secretary of Agriculture for the state plan described in section 2-516, an initial cultivator license application may be submitted at any time, except that the department may set a cutoff date for applications ahead of the growing season. An initial cultivator license issued by the
(6) A renewal application for a license to cultivate hemp shall be submitted on forms prescribed by the department. A renewal application is due by December 31 and shall be accompanied by the cultivator license fee and the site registration fee for all sites listed in the renewal application. The renewal cultivator license is valid from January 1 or when the license is granted, whichever is later, through December 31 next following.

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

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

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

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

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

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

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

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

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

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

(4) Before a person may be licensed to handle or process or handle hemp, such person shall submit a site registration fee as set by the department pursuant to section 2-508. The site registration fee shall be paid for each separate site where hemp is handled or processed or handled. Subsequent modifications to the sites listed in the application shall be submitted on forms prescribed by the department along with the site modification fee and shall only take effect upon written approval of the department. The applicant must certify that all sites where hemp is handled or processed or handled are under the control of the applicant and that the department shall have unlimited access to all such sites.
An initial processor-handler or broker license application may be submitted at any time. An initial processor-handler or broker license issued by the department expires on December 31 in the calendar year for which it was issued.

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

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

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

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

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

2-508 (1) License fees under the Nebraska Hemp Farming Act are due with the license application on or before December 31 and shall be in the amount listed in column A of subsection (2) of this section. The fees due on or before December 31, 2019, and by each December 31 thereafter shall

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be set by the director on or before July 1 of each year. The director may raise or lower such fees each year to meet the criteria in this subsection, but the fee shall not be greater than the amount in column B of subsection (2) of this section. The same percentage shall be applied to each category for all fee increases or decreases. The director shall use the fees in column A of subsection (2) of this section as a base for future fee increases or decreases. The director shall determine the fees based on estimated annual revenue and fiscal year-end cash fund balances as follows:

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

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

(2) Fees.

<table>
<thead>
<tr>
<th>Fees</th>
<th>A</th>
<th>B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cultivator, processor-handler, and broker license application fee</td>
<td>$100</td>
<td>$150</td>
</tr>
<tr>
<td>Cultivator site registration fee</td>
<td>$400 per site</td>
<td>$600 per site</td>
</tr>
<tr>
<td>Processor-handler site registration fee</td>
<td>$800 per site</td>
<td>$1,200 per site</td>
</tr>
<tr>
<td>Site modification fee</td>
<td>$50</td>
<td>$75</td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Failure to provide an accurate legal description of land on
which a person cultivates hemp;
(b) Failure to obtain a license or other required authorization from the department; or 

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

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

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

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

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

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

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

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

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

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

and

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

Upon violation of a corrective action plan, the director may issue an amended corrective action plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Two Nebraska farmers with an interest in cultivating hemp; and
(ii) A manufacturer of hemp products.

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

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

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

(b) To prepare and approve a budget;

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

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

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

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

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

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

(a) Federal laws and regulatory constraints;

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

(c) Nebraska businesses that may potentially utilize hemp;

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

(e) The potential for globally marketing Nebraska hemp;

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

(g) Law enforcement concerns;

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

(i) Technical support and education about hemp.

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

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

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

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

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

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

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

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

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

(6) Department means the Department of Health and Human Services;
(7) Division of Drug Control means the personnel of the Nebraska State Patrol who are assigned to enforce the Uniform Controlled Substances Act;

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

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

(10) Prescribe means to issue a medical order;

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

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

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

(14)(a) Marijuana means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds.

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

(c) Marijuana does not include hemp.

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

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

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

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

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

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

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

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

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

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

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

(24) State means the State of Nebraska;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(44) Cannabinoid receptor agonist means any chemical compound or substance that, according to scientific or medical research, study, testing, or analysis, demonstrates the presence of binding activity at one or more of the CB1 or CB2 cell membrane receptors located within the human body. Cannabinoid receptor agonist does not include cannabidiol contained in a drug product approved by the federal Food and Drug Administration; and

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

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

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

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

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

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

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

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

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

Sec. 13. Original sections 2-503, 2-504, 2-505, 2-506, 2-508, 2-509, 2-510, 2-511, 2-514, 2-515, and 2-517, Reissue Revised Statutes of Nebraska, and section 28-401, Revised Statutes Cumulative Supplement, 2022, are repealed.

Sec. 14. The following section is outright repealed: Section 2-5701, Revised Statutes Cumulative Supplement, 2022.

Sec. 15. Since an emergency exists, this act takes effect when passed and approved according to law.