

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 546

Introduced by Wayne, 13.

Read first time January 19, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to marijuana; to amend sections 28-439,
2 43-292, 77-2701.02, 77-2701.48, 77-2704.09, 77-27,132, 77-4301,
3 77-4302, 77-4303, 77-4304, 77-4305, 77-4306, 77-4309, 77-4310.01,
4 and 77-4310.03, Reissue Revised Statutes of Nebraska, and sections
5 28-401, 28-405, 28-416, 28-476, 28-1354, 60-6,211.08, 71-5727,
6 81-2,239, and 81-2,263, Revised Statutes Cumulative Supplement,
7 2020; to adopt the Marijuana Control Act and Marijuana Conviction
8 Clean Slate Act; to remove marijuana as a controlled substance under
9 the Uniform Controlled Substances Act; to change provisions relating
10 to penalties for possession of a synthetic cannabinoid and drug
11 paraphernalia; to define, redefine, and eliminate terms; to change
12 provisions relating to termination of parental rights, visitation,
13 custody, and other parenting matters; to prohibit possession of an
14 open container of marijuana in a motor vehicle; to provide for the
15 applicability of the Nebraska Clean Indoor Air Act and the Nebraska
16 Pure Food Act; to impose a higher sales and use tax rate on sales of
17 marijuana; to provide for the distribution of tax revenue; to remove
18 marijuana from the marijuana and controlled substances tax; to
19 rename a fund; to eliminate obsolete provisions; to harmonize
20 provisions; to repeal the original sections; to provide
21 severability; and to outright repeal sections 28-463, 28-464,
22 28-465, 28-466, 28-467, 28-468, and 28-469, Reissue Revised Statutes
23 of Nebraska.

1 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 174 of this act shall be known and may be
2 cited as the Marijuana Control Act.

3 Sec. 2. For purposes of the Marijuana Control Act, the definitions
4 found in sections 3 to 32 of this act apply.

5 Sec. 3. Commission means the Nebraska Marijuana Enforcement
6 Commission.

7 Sec. 4. (1) Concentrated marijuana means the resin extracted from
8 any part of the plant of the genus cannabis and every compound,
9 manufacture, salt, derivative, mixture, or preparation of that resin.
10 This includes inhalable concentrates which may be comprised of marijuana
11 and other ingredients inside a device that uses a heating element to
12 create a vapor, including, but not limited to, vaporizer cartridges and
13 vaporizer pens.

14 (2) When resins extracted from hemp are in the possession of a
15 person as authorized under the Nebraska Hemp Farming Act, they are not
16 considered concentrated marijuana for purposes of the Marijuana Control
17 Act.

18 Sec. 5. Cultivator means a person licensed by the commission to
19 cultivate marijuana pursuant to the Marijuana Control Act for sale to
20 marijuana stores, to products manufacturers, and to other cultivators,
21 but not to consumers.

22 Sec. 6. Disproportionately impacted area means an area within the
23 State of Nebraska that satisfies the following criteria, as determined by
24 the commission, in consultation with the Department of Economic
25 Development:

26 (1) The area meets at least one of the following criteria:

27 (a) The average poverty rate in the area is twenty percent or more
28 for the total federal census tract or tracts or federal census block
29 group or block groups in the area;

30 (b) Seventy-five percent or more of the children in the area qualify
31 for free or reduced-price lunches under United States Department of

1 Agriculture child nutrition programs;

2 (c) At least twenty percent of the households in the area receive
3 assistance under the federal Supplemental Nutrition Assistance Program;
4 or

5 (d) The average rate of unemployment in the area during the period
6 covered by the most recent federal decennial census or American Community
7 Survey 5-Year Estimate by the United States Bureau of the Census is at
8 least one hundred fifty percent of the average rate of unemployment in
9 the state during the same period; and

10 (2) The area has high rates of arrest, conviction, and incarceration
11 related to the sale, possession, use, cultivation, manufacture, or
12 transport of marijuana.

13 Sec. 7. (1) Disqualifying offense means a felony, of which a person
14 was convicted in the preceding ten years, that is:

15 (a) A violent offense;

16 (b) A violation of the Marijuana Control Act; or

17 (c) A violation of subdivision (4)(a)(i) or subsection (5) of
18 section 28-416.

19 (2) An offense is not a disqualifying offense if it has been
20 pardoned, expunged, or set aside.

21 (3) For purposes of this section:

22 (a) Serious bodily injury has the same meaning as in section 28-109;

23 (b) Sexual contact and sexual penetration have the same meanings as
24 in section 28-318; and

25 (c) Violent offense means:

26 (i) A violation of any of the following sections: 28-303, 28-304,
27 28-305, 28-306, 28-308, 28-309, 28-310.01, 28-311, 28-311.01, 28-311.03,
28 28-311.08, 28-313, 28-314, 28-316.01, 28-319, 28-319.01, 28-320,
29 28-320.01, 28-320.02, 28-322.02, 28-322.03, 28-322.04, 28-322.05, 28-323,
30 28-324, 28-386, 28-391, 28-392, 28-393, 28-394, 28-397, 28-398, 28-502,
31 28-503, 28-507, 28-703, 28-707, 28-813.01, 28-831, 28-833, 28-904,

1 28-905, 28-912, 28-929, 28-930, 28-931, 28-931.01, 28-932, 28-933,
2 28-934, 28-1005, 28-1009, 28-1105.01, 28-1205, 28-1212.02, 28-1212.04,
3 28-1221, 28-1222, 28-1223, 28-1224, 28-1351, 28-1463.03, or 28-1463.05,
4 or 42-924;

5 (ii) An offense that has as an element:

6 (A) Sexual contact or sexual penetration; or

7 (B) The threat to inflict serious bodily injury or death on another
8 person, the infliction of serious bodily injury on another person, or
9 causing the death of another person; or

10 (iii) Attempt, solicitation, aiding or abetting, being an accessory,
11 or conspiracy to commit an offense listed in subdivision (3)(c)(i) or
12 (ii) of this section.

13 Sec. 8. Employment authorization means authorization granted by the
14 commission for an individual to work for a licensee as provided in
15 sections 160 to 164 of this act.

16 Sec. 9. Hemp has the same meaning as in section 2-503.

17 Sec. 10. Immature plant means a nonflowering marijuana plant that
18 is:

19 (1) No taller than eight inches;

20 (2) No wider than eight inches;

21 (3) Produced from a cutting, clipping, or seedling; and

22 (4) In a cultivating container.

23 Sec. 11. Implementation date means a date selected by the
24 commission that is:

25 (a) After the commission has adopted rules and regulations necessary
26 to carry out the Marijuana Control Act; and

27 (b) On or before January 1, 2023.

28 Sec. 12. License means a license issued by the commission pursuant
29 to the Marijuana Control Act. License does not include an employment
30 authorization or any other permit or certification issued by the
31 commission.

1 Sec. 13. Licensed premises means the premises specified in an
2 application for a license under the Marijuana Control Act, which are
3 owned by or in the possession of the licensee and within which the
4 licensee is authorized to cultivate, manufacture, distribute, sell, or
5 test marijuana in accordance with the Marijuana Control Act.

6 Sec. 14. Licensee means a person licensed by the commission
7 pursuant to the Marijuana Control Act.

8 Sec. 15. Local governing body means (1) the city council or village
9 board of trustees of a city or village within which the licensed premises
10 are located or (2) if the licensed premises are not within the corporate
11 limits of a city or village, the county board of the county within which
12 the licensed premises are located.

13 Sec. 16. Location means a particular parcel of land that may be
14 identified by an address or other descriptive means.

15 Sec. 17. (1) Marijuana means all parts of the plant of the genus
16 cannabis, whether growing or not, the seeds thereof, and every compound,
17 manufacture, salt, derivative, mixture, extract, or preparation of such
18 plant or its seeds.

19 (2) Marijuana includes marijuana in all forms, including, but not
20 limited to, marijuana products and concentrated marijuana.

21 (3) Marijuana does not include the mature stalks of such plant,
22 fiber produced from such stalks, oil or cake made from the seeds of such
23 plant, any other compound, manufacture, salt, derivative, mixture, or
24 preparation of such mature stalks, the sterilized seed of such plant
25 which is incapable of germination, or cannabidiol contained in a drug
26 product approved by the federal Food and Drug Administration or obtained
27 pursuant to sections 28-463 to 28-468.

28 (4) Marijuana does not include hemp.

29 (5) When the weight of marijuana is referred to in the Marijuana
30 Control Act:

31 (a) It means its weight at or about the time it is seized or

1 otherwise comes into the possession of law enforcement authorities,
2 whether cured or uncured at that time; and

3 (b) It does not include the weight of any other ingredient combined
4 with marijuana to prepare topical or oral administrations, food, drink,
5 or some other marijuana product.

6 Sec. 18. Marijuana accessories means any equipment, products, or
7 materials of any kind which are used, intended for use, or designed for
8 use in:

9 (1) Planting, propagating, cultivating, growing, harvesting,
10 manufacturing, compounding, converting, producing, processing, preparing,
11 testing, analyzing, packaging, repackaging, storing, consuming, smoking,
12 vaporizing, or containing marijuana; or

13 (2) Ingesting, inhaling, or otherwise introducing marijuana into the
14 human body.

15 Sec. 19. Marijuana product means a product comprised of marijuana
16 and other ingredients and that is intended for use by consumption, other
17 than by smoking. Marijuana product includes, but is not limited to,
18 edible products, concentrated marijuana, ointments, and tinctures.

19 Sec. 20. Marijuana store means a person licensed by the commission
20 to:

21 (1) Purchase marijuana from cultivators;

22 (2) Purchase marijuana products from products manufacturers and
23 other marijuana stores; and

24 (3) Sell marijuana and marijuana products to consumers twenty-one
25 years of age and older and to other marijuana stores.

26 Sec. 21. Ordinance means any ordinance, regulation, resolution, or
27 other law duly enacted by a local governing body.

28 Sec. 22. Premises means a distinctly identified and definite
29 location, as required by the commission, and may include a building, a
30 part of a building, a room, or any other definite contiguous area.

31 Sec. 23. Private residence means a house, an apartment unit, a

1 mobile home, or other similar dwelling.

2 Sec. 24. Process or processing means to harvest, dry, cure, trim,
3 and separate parts of the marijuana plant by manual or mechanical means.

4 Sec. 25. Products manufacturer means a person licensed by the
5 commission to manufacture marijuana products pursuant to the Marijuana
6 Control Act for sale and distribution to marijuana stores and other
7 products manufacturers, but not to consumers.

8 Sec. 26. School means a public, private, denominational, or
9 parochial preschool, elementary, vocational, or secondary school, a
10 private postsecondary career school as defined in section 85-1603, a
11 community college, a public or private college, a junior college, or a
12 university.

13 Sec. 27. Social equity applicant means an applicant for a license
14 that meets one of the following criteria:

15 (1) At least fifty-one percent of ownership and control of the
16 applicant is by individuals who have resided for at least five of the
17 preceding ten years in a disproportionately impacted area;

18 (2) At least fifty-one percent of ownership and control of the
19 applicant is by individuals who:

20 (a) Have been arrested for, convicted of, or adjudicated for any
21 offense that is eligible for clean slate relief under the Marijuana
22 Conviction Clean Slate Act;

23 (b) Is a parent, legal guardian, child, spouse, or dependent of an
24 individual described in subdivision (2)(a) of this section; or

25 (3) If the applicant will have at least ten full-time employees, at
26 least fifty-one percent of such employees:

27 (a) Reside in a disproportionately impacted area; or

28 (b) Have been arrested for, convicted of, or adjudicated for any
29 offense that is eligible for clean slate relief under the Marijuana
30 Conviction Clean Slate Act; or

31 (c) Are a parent, legal guardian, child, spouse, or dependent of an

1 individual described in subdivision (3)(b) of this section.

2 Sec. 28. Testing facility means a person licensed under the
3 Marijuana Control Act to analyze, test, and certify marijuana, including
4 for potency and the presence of contaminants.

5 Sec. 29. THC means tetrahydrocannabinol.

6 Sec. 30. Transfer means to grant, convey, hand over, assign, sell,
7 exchange, or barter, in any manner or by any means, with or without
8 consideration.

9 Sec. 31. Transporter means an entity or person that is licensed to
10 transport marijuana from one licensee to another and to temporarily store
11 the transported marijuana at its licensed premises, but which is not
12 authorized to sell marijuana under any circumstances.

13 Sec. 32. Unreasonably impracticable means that the measures
14 necessary to comply with the rules and regulations adopted and
15 promulgated pursuant to the Marijuana Control Act or the ordinances
16 enacted by a local governing body pursuant to the act would subject a
17 licensee to unreasonable risk or require such a high investment of risk,
18 money, time, or any other resource or asset that a reasonably prudent
19 businessperson would not operate as a licensee.

20 Sec. 33. The Marijuana Control Act sets forth the exclusive means
21 by which a person in Nebraska may engage in the cultivation, manufacture,
22 sale, distribution, transfer, dispensing, testing, possession, and use of
23 marijuana.

24 Sec. 34. Nothing in the act permits the transfer of marijuana to a
25 person under the age of twenty-one years or allows a person under the age
26 of twenty-one years to purchase, possess, use, transport, cultivate, or
27 consume marijuana.

28 Sec. 35. The following conduct relating to marijuana shall be
29 lawful under state and local law when conducted in accordance with the
30 Marijuana Control Act. An individual twenty-one years of age or older
31 may:

1 (1) Possess, process, transport, purchase, obtain, or give away to
2 persons twenty-one years of age or older without any compensation
3 whatsoever, not more than one ounce of marijuana in any form;

4 (2) Possess, grow, plant, cultivate, harvest, dry, or process
5 marijuana plants as provided in section 36 of this act;

6 (3) Smoke, ingest, or otherwise consume marijuana; and

7 (4) Possess, transport, purchase, obtain, use, manufacture, or give
8 away marijuana accessories to persons twenty-one years of age or older
9 without any compensation whatsoever.

10 Sec. 36. (1) An individual who is twenty-one years of age or older
11 may cultivate not more than six living marijuana plants and possess the
12 marijuana produced by such plants, subject to the following restrictions:

13 (a) At least three of the marijuana plants being cultivated at any
14 time shall be immature marijuana plants;

15 (b) The individual shall keep the living plants and any marijuana
16 produced by the plants in excess of one ounce:

17 (i) Within the person's private residence in such a manner that such
18 plants and marijuana are not visible from a public place with normal,
19 unaided vision;

20 (ii) Within a structure on the grounds of the person's private
21 residence that is fully enclosed and kept locked and such plants and
22 marijuana are not visible from a public place with normal, unaided
23 vision; or

24 (iii) Unless prohibited by an ordinance of a local governing body as
25 provided in subsection (3) of section 37 of this act, on the grounds of
26 the person's private residence in an area that is kept locked and such
27 plants and marijuana are not visible from a public place with normal,
28 unaided vision; and

29 (c) The person plants, cultivates, harvests, dries, processes, and
30 possesses such plants and marijuana in accordance with any ordinances of
31 a local governing body adopted under section 37 of this act.

1 (2) Marijuana plants and marijuana produced from such plants in
2 compliance with this section does not count toward the limit stated in
3 subdivision (1) of section 36 of this act or in section 43 of this act.

4 (3) A violation of this section involving:

5 (a) Less than twelve plants is:

6 (i) For a first offense, a Class V misdemeanor;

7 (ii) For a second offense, a Class IV misdemeanor;

8 (iii) For a third offense, a Class III misdemeanor; and

9 (iv) For a fourth offense or subsequent violation, a Class IV
10 felony;

11 (b) Twelve plants but less than twenty-four plants is a Class IIIA
12 felony; and

13 (c) Twenty-four plants or more is a Class IIA felony.

14 (4) This section does not apply to a licensee acting within the
15 scope of activities permitted under its license.

16 Sec. 37. (1) Except as provided in subsection (2) of this section,
17 a local governing body may enact and enforce ordinances to reasonably
18 regulate the activities permitted by section 36 of this act.

19 (2) A local governing body shall not completely prohibit an
20 individual from engaging in conduct protected by section 36 of this act
21 if the individual is keeping and cultivating the marijuana plants and
22 marijuana produced by such plants in accordance with subdivision (1)(b)
23 (i) or (ii) or section 36 of this act.

24 (3) A local governing body may completely prohibit persons from
25 engaging in conduct under subdivision (1)(b)(iii) of section 36 of this
26 act.

27 Sec. 38. (1) A person shall not smoke or otherwise consume
28 marijuana or marijuana products in any public place, in or upon the
29 licensed premises of any licensee, or in a motor vehicle.

30 (2) A person who violates this section shall be guilty of an
31 infraction, receive a citation, and be fined not more than three hundred

1 dollars.

2 Sec. 39. (1) Except as provided in section 153 of this act, no
3 person under the age of twenty-one years shall possess marijuana.

4 (2) No person under the age of twenty-one years shall consume
5 marijuana.

6 (3) A violation of this section is a Class III misdemeanor.

7 Sec. 40. (1) Except as provided in section 153 of this act, no
8 person under the age of twenty-one years shall falsely represent that
9 such person is twenty-one years of age in order to obtain marijuana or
10 marijuana products.

11 (2) A violation of this section is a Class III misdemeanor.

12 Sec. 41. (1) A person shall not knowingly give marijuana to any
13 person under twenty-one years of age or knowingly leave or deposit
14 marijuana in any place with the intent that it will come into the
15 possession of a person under twenty-one years of age. A violation of this
16 subsection is a Class II misdemeanor.

17 (2) A person shall not knowingly give marijuana to any person under
18 eighteen years of age or knowingly leave or deposit marijuana in any
19 place with the intent that it will come into the possession of a person
20 under eighteen years of age. A violation of this subsection is a Class I
21 misdemeanor.

22 Sec. 42. (1) Except as provided in subsection (2) of this section,
23 a person who intentionally makes a materially false statement to a law
24 enforcement official or employee of the commission about any fact or
25 circumstance relating to the use of marijuana to avoid arrest,
26 prosecution, or imposition of any civil sanction or penalty is guilty of
27 a Class III misdemeanor.

28 (2) A licensee or applicant for licensure under the Marijuana
29 Control Act who knowingly makes a materially false statement to the
30 commission or the Department of Revenue is guilty of a Class IV felony.

31 Sec. 43. (1) Except as provided in section 36 of this act and

1 subsection (4) of this section, a person commits an offense if such
2 person possesses more than one ounce of marijuana in any form.

3 (2) The following penalties shall apply to a violation of this
4 section involving marijuana, other than concentrated marijuana:

5 (a) Possession of more than one ounce but not more than two ounces
6 is an infraction;

7 (b) Possession of more than two ounces but not more than six ounces
8 is a Class I misdemeanor;

9 (c) Possession of more than six ounces but not more than twelve
10 ounces of marijuana is a Class IV felony; and

11 (d) Possession of more than twelve ounces of is a Class IIIA felony.

12 (3) The following penalties shall apply to a violation of this
13 section involving concentrated marijuana:

14 (a) Possession of more than one ounce but not more than two ounces
15 is an infraction;

16 (b) Possession of more than two ounces but not more than three
17 ounces is a Class I misdemeanor;

18 (c) Possession of more than three ounces but not more than twelve
19 ounces is a Class IV felony; and

20 (d) Possession of more than twelve ounces is a Class IIIA felony.

21 (4) This section does not apply to a licensee acting within the
22 scope of activities permitted under its license.

23 Sec. 44. A person other than a licensee who transfers more than one
24 ounce of marijuana to another person without consideration is guilty of
25 an infraction.

26 Sec. 45. (1) A person other than a marijuana store, cultivator, or
27 products manufacturer shall not sell marijuana to another person.

28 (2) A violation of this section involving:

29 (a) Four ounces or less of marijuana or two ounces or less of
30 concentrated marijuana is a Class I misdemeanor for a first offense and a
31 Class IV felony for a second or subsequent offense;

1 (b) More than four ounces but not more than twelve ounces of
2 marijuana or more than two ounces but not more than six ounces of
3 concentrated marijuana is a Class IIIA felony;

4 (c) More than twelve ounces but not more than five pounds of
5 marijuana or more than six ounces but not more than two and one-half
6 pounds of concentrated marijuana is a Class III felony;

7 (d) More than five pounds but not more than fifty pounds of
8 marijuana or more than two and one-half pounds but not more than twenty-
9 five pounds of concentrated marijuana is a Class IIA felony; and

10 (e) More than fifty pounds of marijuana or more than twenty-five
11 pounds of concentrated marijuana is a Class II felony.

12 (2) For purposes of this section, sell means to exchange or barter
13 in any manner or by any means whatsoever for consideration.

14 Sec. 46. (1) A person who knowingly allows another person to
15 cultivate marijuana on such person's property in violation of section 36
16 of this act is guilty of an offense.

17 (2) A violation of this section involving:

18 (a) Less than twelve plants shall be a Class III misdemeanor for a
19 first offense and a Class IV felony for a second or subsequent offense;

20 (b) Twelve plants or more but less than twenty-four plants is a
21 Class IV felony; and

22 (c) Twenty-four plants or more is a Class III felony.

23 Sec. 47. A person shall not manufacture marijuana or marijuana
24 products by chemical extraction or chemical synthesis unless done
25 pursuant to a products manufacturer license issued under the Marijuana
26 Control Act or as otherwise authorized by such act. A violation of this
27 section is a Class IV felony.

28 Sec. 48. Nothing in the Marijuana Control Act permits any person to
29 engage in or prevents the imposition of any civil, criminal, or other
30 penalties for:

31 (1) Undertaking any task that would constitute negligence or

1 professional malpractice due to the use of marijuana or being under the
2 influence of marijuana;

3 (2) Operating, navigating, or being in actual physical control of
4 any motor vehicle, aircraft, train, or motorboat or working on
5 transportation property, equipment, or facilities, while using or being
6 under the influence of marijuana; or

7 (3) Using marijuana in violation of the Nebraska Clean Indoor Air
8 Act.

9 Sec. 49. Nothing in the Marijuana Control Act:

10 (1) Requires an employer to permit or accommodate the use,
11 consumption, possession, transfer, display, transportation, sale, or
12 cultivation of marijuana in the workplace; or

13 (2) Affects the ability of an employer to have a policy restricting
14 the use of marijuana by employees.

15 Sec. 50. Nothing in the Marijuana Control Act prohibits a person,
16 employer, school, hospital, detention facility, corporation, or any other
17 entity, whether public or private, who occupies, owns, or controls a
18 property from prohibiting or otherwise regulating the possession,
19 consumption, use, display, transfer, distribution, sale, transportation,
20 or cultivation of marijuana on or in that property.

21 Sec. 51. Except as otherwise provided in the Marijuana Control Act,
22 a person shall not be arrested, prosecuted, penalized, sanctioned, or
23 otherwise denied any benefit and shall not be subject to seizure or
24 forfeiture of assets for possessing, using, purchasing, cultivating,
25 processing, or manufacturing marijuana in accordance with the Marijuana
26 Control Act.

27 Sec. 52. Except as otherwise provided in the Marijuana Control Act,
28 a person shall not be arrested, prosecuted, penalized, sanctioned, or
29 otherwise denied any benefit and shall not be subject to seizure or
30 forfeiture of assets for allowing property the person owns, occupies, or
31 manages to be used for any of the activities conducted lawfully under the

1 Marijuana Control Act or for enrolling or employing a person who engages
2 in marijuana-related activities lawfully under the Marijuana Control Act.

3 Sec. 53. (1) A landlord shall not prohibit the possession of
4 marijuana or consumption of marijuana, by means other than smoking,
5 within a single-family dwelling or a mobile home, by a person authorized
6 to do so under the Marijuana Control Act, unless:

7 (a) The residence is incidental to detention or the provision of
8 medical, geriatric, educational, counseling, religious, or similar
9 service;

10 (b) The residence is a transitional housing facility; or

11 (c) Failing to prohibit marijuana possession or consumption would
12 violate federal law or regulations or cause the landlord to lose a
13 monetary or licensing-related benefit under federal law or regulations.

14 (2) For purposes of this section:

15 (a) Landlord includes a landlord as defined in sections 76-1410 and
16 76-1462;

17 (b) Mobile home has the same meaning as in section 76-1463; and

18 (c) Single-family dwelling has the same meaning as single-family
19 residence in section 76-1410.

20 Sec. 54. (1) Marijuana and marijuana accessories obtained,
21 manufactured, and distributed pursuant to the Marijuana Control Act and
22 associated property are not subject to forfeiture under section 28-431.

23 (2) Marijuana and marijuana accessories obtained, manufactured, and
24 distributed pursuant to the Marijuana Control Act are not contraband, nor
25 subject to seizure, and no conduct made lawful in the Marijuana Control
26 Act shall constitute a basis for detention, search, or arrest.

27 Sec. 55. (1) The use of marijuana shall not disqualify a person
28 from any needed medical procedure or treatment, including an organ or a
29 tissue transplant.

30 (2) The use of marijuana shall not constitute the use of an illicit
31 substance for medical purposes or otherwise disqualify a person from

1 needed medical care.

2 Sec. 56. An attorney shall not be subject to disciplinary action
3 for providing legal assistance to a prospective licensee, licensee, or
4 another person or entity who is engaged in activities that are no longer
5 subject to criminal penalties under state law pursuant to the Marijuana
6 Control Act.

7 Sec. 57. A contract entered into by a licensee or its employees or
8 agents, or by those who allow their property to be used by a licensee or
9 its employees or agents, shall not be unenforceable on the basis that
10 cultivating, obtaining, manufacturing, distributing, dispensing,
11 transporting, selling, possessing, or using marijuana is prohibited by
12 federal law. It is the public policy of the State of Nebraska that such
13 contracts shall be enforceable to the same extent as other contracts.

14 Sec. 58. (1) A financial institution may loan money to, accept
15 deposits from, and otherwise do business with any licensee to the same
16 extent as other persons, subject to any restrictions of the Marijuana
17 Control Act.

18 (2) For purposes of this section, financial institution means a
19 bank, savings bank, credit card bank, savings and loan association,
20 building and loan association, trust company, or credit union organized
21 under the laws of any state or organized under the laws of the United
22 States.

23 Sec. 59. (1) The state or any local government shall not restrict,
24 revoke, suspend, or otherwise infringe upon a person's right to own or
25 possess a firearm or ammunition based on the person engaging in conduct
26 permitted under the Marijuana Control Act.

27 (2) The state or any local government shall not restrict, revoke,
28 suspend, or otherwise infringe upon a person's right receive any firearm
29 certification, including, but not limited to, a certification under
30 sections 69-2401 to 69-2425 or a permit under the Concealed Handgun
31 Permit Act based on the person engaging in conduct protected by the

1 Marijuana Control Act.

2 (3) The state or any local government shall not provide any
3 assistance, including information, to federal authorities who may use the
4 information to restrict, revoke, suspend, or otherwise infringe upon a
5 person's right to own or possess a firearm or ammunition based on the
6 person engaging in conduct protected by the Marijuana Control Act.

7 (4) The state or any local government shall not provide any
8 assistance, including information, to federal authorities who may use the
9 information to restrict a person's benefits or rights under federal law
10 based on the person engaging in conduct protected by the Marijuana
11 Control Act.

12 Sec. 60. The state or any local government shall not employ or use
13 the results of any test of marijuana conducted by a laboratory unless
14 such laboratory is a testing facility or otherwise accredited for the
15 particular field of testing in accordance with the rules and regulations
16 of the commission.

17 Sec. 61. (1) For the purpose of regulating and controlling the
18 licensing of the cultivation, manufacture, distribution, and sale of
19 marijuana in this state, the Nebraska Marijuana Enforcement Commission is
20 created.

21 (2) The power to regulate all phases of the control of the
22 cultivation, manufacture, distribution, processing, sale, and traffic of
23 marijuana, except as specifically delegated in the Marijuana Control Act,
24 is vested exclusively in the commission.

25 Sec. 62. (1) The commission shall consist of three commissioners to
26 be appointed by the Tax Commissioner. No more than two commissioners
27 shall be members of the same political party, and no two commissioners
28 shall be residents of the same congressional district. On or before
29 November 1, 2021, the Tax Commissioner shall appoint the commissioners.
30 The terms of the commissioners shall be four years, except that the terms
31 of the initial commissioners shall be staggered so that one member is

1 appointed for a term of one year, one for a term of two years, and one
2 for a term of three years, as determined by the Tax Commissioner.

3 (2) The Tax Commissioner shall appoint commissioners based on their
4 experience or expertise in public health, law enforcement, social
5 justice, the regulation of businesses or consumer commodities, and
6 matters related to marijuana.

7 (3) The commissioners shall appoint one of their members as
8 chairperson. The chairperson shall preside over all official activities
9 of the commission.

10 (4) Any commissioner may be removed by the Tax Commissioner, after
11 an opportunity to be heard, for malfeasance, misfeasance, or neglect in
12 office. No person shall be appointed to the commission, or continue to
13 hold that office after appointment, while holding any other office or
14 position under the laws of this state, any other state, or of the United
15 States.

16 (5) Any vacancy occurring for any reason other than the expiration
17 of a term shall be filled for the unexpired term in the same manner as
18 the original appointment.

19 Sec. 63. The commission shall have an executive director, to be
20 appointed by the commission subject to the approval of the Tax
21 Commissioner. The executive director shall keep a record of all
22 proceedings, transactions, communications, and official acts of the
23 commission. The executive director shall be the custodian of all records
24 and perform such other duties as the commission may prescribe.

25 Sec. 64. No person shall be appointed as a commissioner or the
26 executive director of the commission who is not a citizen of the United
27 States and who has not resided within the State of Nebraska successively
28 for two years next preceding the date of appointment.

29 Sec. 65. (1) A majority of the commission shall constitute a quorum
30 to transact business, but no vacancy shall impair the right of the
31 remaining commissioners to exercise all of the powers of the commission.

1 (2) Every act of a majority of the members of the commission shall
2 be deemed to be the act of the commission.

3 Sec. 66. (1) The commission may expend for such investigators and
4 clerical and other assistants as may be necessary for the performance of
5 its duties.

6 (2) The commission may, with the advice and approval of the Tax
7 Commissioner, employ a chief investigator and other investigators to aid
8 in enforcement of the Marijuana Control Act and to make all necessary and
9 appropriate investigations for that enforcement.

10 Sec. 67. Before entering upon the duties of office, each
11 commissioner and the executive director shall be bonded or insured as
12 required by section 11-201. Employees of the commission who are
13 accountable for public funds shall be bonded or insured as required by
14 section 11-201 to secure the safety of such funds. The premium shall be
15 paid by the State of Nebraska out of the General Fund.

16 Sec. 68. (1) Except as otherwise provided in subsection (2) of this
17 section, a commissioner, the executive director, or any employee of the
18 commission shall not:

19 (a) Directly or indirectly, individually, as a member of a
20 partnership, as a member of a limited liability company, or as a
21 shareholder of a corporation, have any interest whatsoever in the
22 cultivation, manufacture, processing, distribution, or sale of marijuana
23 or hemp; or

24 (b) Receive any compensation or profit from an activity described in
25 subdivision (1)(a) of this section or have any interest whatsoever in the
26 purchases or sales made by the persons authorized by the Marijuana
27 Control Act to purchase or sell marijuana.

28 (2) With the written approval of the executive director, an employee
29 of the commission, other than the executive director or a division
30 manager, may accept part-time or seasonal employment with a licensee.

31 (3) This section shall not prevent any commissioner, the executive

1 director, or any employee from purchasing and keeping in their possession
2 for the use of themselves or members of their family or guests any
3 marijuana which may be purchased or kept by any person pursuant to the
4 Marijuana Control Act.

5 Sec. 69. (1) Except as provided in subsection (2) of section 68 of
6 this act, a commissioner, the executive director, or any person employed
7 by the commission shall not:

8 (a) Solicit or accept any gift, gratuity, emolument, or employment
9 from any person subject to the Marijuana Control Act or from any officer,
10 agent, or employee of such person; or

11 (b) Solicit, request from, or recommend, directly or indirectly, to
12 any person subject to the Marijuana Control Act or to any officer, agent,
13 or employee of such person the appointment of any person to any place or
14 position.

15 (2) Except as provided in subsection (2) of section 68 of this act,
16 any person subject to the Marijuana Control Act and every officer, agent,
17 or employee of such person shall not offer to any commissioner, the
18 executive director, or any person employed by the commission any gift,
19 gratuity, emolument, or employment.

20 (3) If a commissioner, the executive director, or any person
21 employed by the commission violates this section, such person shall be
22 removed from such office or employment.

23 (4) A violation of this section is a Class II misdemeanor.

24 Sec. 70. (1) A commissioner, the executive director, or a
25 commission employee with regulatory oversight responsibilities for
26 licensees shall not work for, represent, or provide consulting services
27 to or otherwise derive pecuniary gain from a licensee or other business
28 entity established for the primary purpose of providing services to the
29 marijuana industry for a period of six months following such person's
30 last day of employment with the commission.

31 (2) A violation of this section is a Class II misdemeanor.

1 Sec. 71. (1) Each commissioner shall receive an annual salary of
2 not to exceed twelve thousand five hundred dollars, to be fixed by the
3 Tax Commissioner, payable monthly, and in addition actual and necessary
4 expenses incurred on behalf of the commission as provided in this
5 section. The salary of the executive director shall be fixed by the
6 commission, payable monthly.

7 (2) The commissioners, the executive director of the commission, and
8 all employees of the commission shall be reimbursed for expenses incurred
9 in the discharge of their official duties as provided in sections 81-1174
10 to 81-1177. The commission may also incur necessary expenses for office
11 furniture and other incidental expenses. No commissioner, executive
12 director, or employee of the commission shall request or be allowed
13 mileage or other traveling expenses unless such sections are strictly
14 complied with.

15 Sec. 72. The office of the commission shall be in Lincoln, but the
16 commission may, with the approval of the Tax Commissioner, establish and
17 maintain branch offices at other places.

18 Sec. 73. The commission shall hold regular meetings at least once a
19 month and may hold such special meetings as it deems necessary at any
20 time and at any place within the state.

21 Sec. 74. (1) The commission may, for authentication of its records,
22 process, and proceedings, adopt, keep, and use a common seal, of which
23 seal judicial notice shall be taken in all of the courts of the state.

24 (2) Any process, notice, or other paper which the commission is
25 authorized by law to issue shall be deemed sufficient if signed by the
26 chairperson and executive director and authenticated by such seal.

27 (3) All acts, orders, proceedings, rules, regulations, entries,
28 minutes, and other records of the commission and all reports and
29 documents filed with the commission may be proved in any court of this
30 state by copy thereof certified to by the executive director attached.

31 Sec. 75. The Attorney General shall designate an assistant attorney

1 general or assistant attorneys general, when requested by the commission
2 and directed by the Tax Commissioner, and the services of such assistant
3 attorney general or assistant attorneys general shall be available to the
4 commission whenever demanded. The compensation of such assistant attorney
5 general or assistant attorneys general as are assigned to the commission
6 shall be paid by the office of the Attorney General.

7 Sec. 76. The commission shall hold a public hearing before the
8 adoption, amendment, or repeal of any rule or regulation.

9 Sec. 77. On or before January 1, 2024, and annually thereafter, the
10 commission shall annually publish a full report of its actions during the
11 preceding year, including a comprehensive description of its activities
12 and including the number of licensees of each class issued; enforcement
13 actions in which fines, suspension, revocations, or other disciplinary
14 sanctions were issued; and a statement of revenue and expenses of the
15 commission.

16 Sec. 78. The commission shall study marijuana commerce and may make
17 recommendations to the Legislature regarding changes in the laws of the
18 state that further the intent of the Marijuana Control Act.

19 Sec. 79. The commission and the Department of Agriculture,
20 Department of Revenue, and Department of Health and Human Services shall
21 work collaboratively in furtherance of the intent of the Marijuana
22 Control Act and to ensure that the cultivation, manufacture,
23 distribution, and sale of marijuana in this state is conducted in
24 accordance with the act.

25 Sec. 80. (1) On or before September 1, 2022, the commission shall
26 adopt and promulgate rules and regulations necessary for the proper
27 regulation and control of the cultivation, manufacture, distribution,
28 sale, and testing of marijuana and for the enforcement of the Marijuana
29 Control Act. Such rules and regulations shall include, but shall not be
30 limited to:

31 (a) Procedures and requirements for the issuance and renewal of

1 licenses, permits, certificates, and employment authorizations, payment
2 of fees, investigating and deciding disciplinary proceedings, and
3 imposing sanctions for violations of the Marijuana Control Act or rules
4 and regulations adopted and promulgated thereunder;

5 (b) Qualifications and procedures for licensure under the Marijuana
6 Control Act;

7 (c) Requirements and procedures for testing marijuana for potency,
8 the presence of contaminants, and to otherwise ensure the safety of
9 consumers;

10 (d) Rules relating to acceptable testing and research practices,
11 including, but not limited to, research methods, standards, quality
12 control analysis, equipment certification and calibration, and chemical
13 identification;

14 (e) Rules and regulations regarding social equity applicants and the
15 duties imposed by section 95 of this act and other procedures and
16 policies to promote and encourage full participation in the regulation of
17 the marijuana industry by people from communities that have previously
18 been disproportionately harmed by marijuana prohibition and to positively
19 impact those communities;

20 (f) Specifications of duties of officers and employees of the
21 commission;

22 (g) Instructions for local governing bodies and law enforcement
23 officers;

24 (h) Requirements for inspections, investigations, searches,
25 seizures, forfeitures, and such additional enforcement activities as may
26 become necessary from time to time;

27 (i) Documentation for identifying licensees and their owners,
28 officers, managers, and employees;

29 (j) A schedule of penalties for violations and procedures for
30 issuing and appealing citations for violations of statutes and rules and
31 issuing administrative citations;

1 (k) Rules and regulations concerning signage, marketing, and
2 advertising of marijuana, including, but not limited to:

3 (i) A prohibition on mass-marketing campaigns that have a high
4 likelihood of reaching persons under twenty-one years of age;

5 (ii) Rules on marijuana accessory packaging and branding;

6 (iii) A prohibition on unsolicited pop-up advertising on the
7 Internet;

8 (iv) A prohibition on banner ads on mass-market web sites;

9 (v) A prohibition on opt-in marketing that does not permit an easy
10 and permanent opt-out feature; and

11 (vi) A prohibition on marketing directed towards location-based
12 devices, including, but not limited to, cellular phones, unless the
13 marketing is a mobile device application installed on the device by the
14 owner of the device who is twenty-one years of age or older and includes
15 a permanent and easy opt-out feature;

16 (l) Requirements for the security of licensed premises, including,
17 at a minimum, lighting, physical security, video, and alarm requirements,
18 and other minimum procedures for internal control as deemed necessary by
19 the commission to properly administer and enforce the provisions of the
20 Marijuana Control Act, including reporting requirements for changes,
21 alterations, or modifications to the licensed premises. Such requirements
22 shall not prohibit the cultivation of marijuana outdoors in greenhouses;

23 (m) Regulations on the storage of, warehouses for, and
24 transportation of marijuana;

25 (n) A seed-to-sale tracking system for tracking marijuana from
26 either seed or immature plant stage until sold in a marijuana store or
27 otherwise disposed of in accordance with the act and the rules and
28 regulations of the commission;

29 (o) Rules regarding the records to be kept by licensees to ensure
30 that licensees keep complete and accurate electronic records for all
31 transactions involving marijuana, including, but not limited to, rules

1 regarding the types of records each licensee shall maintain, retention
2 schedules, the required availability of the records, and inspection
3 procedures;

4 (p) Rules concerning disposal of marijuana by licensees, consumers,
5 and others as deemed necessary or appropriate by the commission;

6 (q) Rules concerning limited access areas as defined in section 121
7 of this act;

8 (r) Health and safety regulations and standards for the manufacture
9 of marijuana products and cultivation of marijuana;

10 (s) Sanitary requirements for marijuana stores;

11 (t) Limitations on the display of marijuana in marijuana stores;

12 (u) Specification of acceptable forms of government-issued
13 identification documents for proof of age that a marijuana store may
14 accept when verifying a transfer or sale;

15 (v) Rules for transport licensees, and drivers and other employees
16 of such licensees, including, but not limited to, insurance requirements;
17 acceptable time frames for transport, storage, and delivery; requirements
18 for transport vehicles; and requirements for licensed premises; and

19 (w) Such other matters as are necessary for the fair, impartial,
20 stringent, and comprehensive administration of the Marijuana Control Act.

21 (2) After September 1, 2022, the commission may adopt and promulgate
22 rules and regulations necessary to carry out the Marijuana Control Act.

23 Sec. 81. The commission may develop such forms, applications, and
24 other documentation as are necessary or convenient in the discretion of
25 the commission for the administration of the Marijuana Control Act or any
26 rules and regulations adopted and promulgated thereunder.

27 Sec. 82. (1) On or before September 1, 2022, the commission shall
28 adopt and promulgate rules and regulations establishing:

29 (a) The equivalence of one ounce of marijuana flower to various
30 marijuana products, including concentrated marijuana;

31 (b) A standardized marijuana serving size amount for edible

1 marijuana products that does not contain more than ten milligrams of
2 active THC. Such serving size is designed only to provide consumers with
3 information about the total number of servings of active THC in a
4 particular marijuana product, not as a limitation on the total amount of
5 THC in any particular item; and

6 (c) Labeling requirements regarding servings for edible marijuana
7 products and regarding the total content of THC per unit of weight.

8 (2) In carrying out this section the commission may contract for a
9 scientific study if necessary.

10 (3) For purposes of this section, marijuana flower means the raw
11 flower, kief, leaves, and buds of a plant of the genus Cannabis that have
12 been harvested, dried, and cured for consumption by means of inhalation,
13 but prior to any processing whereby the plant material is transformed
14 into a concentrate, including, but not limited to, concentrated
15 marijuana, or an edible or topical product containing marijuana or
16 concentrated marijuana and other ingredients. Marijuana flower does not
17 include the stem of the plant or leaves not containing a significant
18 quantity of THC-containing trichomes.

19 Sec. 83. (1) On or before September 1, 2022, the commission shall
20 adopt and promulgate rules and regulations regarding conditions under
21 which holders of appropriate licenses are authorized to transfer fibrous
22 waste to a person other than a licensee for the purpose of producing only
23 industrial fiber products. The conditions must include contract
24 requirements that stipulate that fibrous waste will only be used to
25 produce industrial fiber products; recordkeeping requirements; security
26 measures related to the transport and transfer of fibrous waste;
27 requirements on handling contaminated fibrous waste; and processes
28 associated with handling fibrous waste. The rules shall not require
29 licensees to alter fibrous waste from its natural state prior to
30 transfer.

31 (2) For purposes of this section:

1 (a) Fibrous waste means any roots, stalks, or stems from a marijuana
2 plant; and

3 (b) Industrial fiber products means intermediate or finished
4 products made from fibrous waste that are not intended for human or
5 animal consumption and are not usable or recognizable as marijuana.
6 Industrial fiber products include, but are not limited to, cordage,
7 paper, fuel, textiles, bedding, insulation, construction materials,
8 compost materials, and industrial materials.

9 Sec. 84. (1) On or before December 1, 2021, the commission shall
10 convene a group to make recommendations for rules and regulations on how
11 edible marijuana products can be clearly identifiable, when practicable,
12 to indicate that such products contain marijuana and are not for
13 consumption by children.

14 (2) The group shall include, but need not be limited to,
15 representatives of the Department of Health and Human Services,
16 representatives of the marijuana industry, child abuse prevention
17 experts, and advocates for children's health.

18 Sec. 85. Nothing in the Marijuana Control Act shall be construed as
19 delegating to the commission the power to fix prices for marijuana.

20 Sec. 86. Rules and regulations adopted and promulgated pursuant to
21 the Marijuana Control Act and any ordinance enacted by a local governing
22 body shall not:

23 (1) Make it unreasonably impracticable to operate as a licensee;

24 (2) Require testing of marijuana before the commission has licensed
25 any marijuana testing facilities or, if such facilities have been
26 licensed, before such facilities are capable of performing any required
27 tests in a timely manner;

28 (3) Require a customer to provide a marijuana store with identifying
29 information other than identification to determine the customer's age;

30 (4) Require a marijuana store to acquire or record personal
31 information about customers other than information typically required in

1 a retail transaction; or

2 (5) Prohibit cultivation of marijuana using inorganic cultivation
3 methods.

4 Sec. 87. (1) The commission shall provide without charge to any
5 licensee a copy of the Marijuana Control Act, any rules and regulations
6 adopted and promulgated thereunder, and any other information which the
7 commission deems important in the area of marijuana control in the State
8 of Nebraska.

9 (2) The information may be printed in a booklet, a pamphlet, or any
10 other form the commission may determine to be appropriate.

11 (3) The commission may update such material as often as it deems
12 necessary.

13 (4) The commission may provide such material to any other person
14 upon request and may charge a fee for the material. The fee shall be
15 reasonable and shall not exceed any reasonable or necessary costs of
16 producing the material for distribution.

17 Sec. 88. The commission may:

18 (1) Call upon other departments of the state, political
19 subdivisions, law enforcement agencies, and prosecutors for such
20 information and assistance as the commission deems necessary in the
21 performance of its duties; and

22 (2) Recommend ordinances to local governing bodies not inconsistent
23 with the Marijuana Control Act.

24 Sec. 89. The commission may request the State Fire Marshal to
25 inspect any licensed premises or premises for which a licensee is sought
26 for fire safety pursuant to section 81-502. The State Fire Marshal shall
27 assess a fee for such inspection pursuant to section 81-505.01 payable by
28 such licensee or applicant. The State Fire Marshal may delegate the
29 authority to make such inspections to qualified local fire prevention
30 personnel pursuant to section 81-502.

31 Sec. 90. (1) The commission shall maintain the confidentiality of

1 reports or other information obtained from a licensee:

2 (a) Containing any individualized data, information, or records
3 related to the licensee or its operation, including sales information,
4 financial records, tax returns, credit reports, cultivation information,
5 testing results, or security information and plans;

6 (b) Which reveals any customer information; or

7 (c) Which are otherwise made confidential or exempt from public
8 disclosure pursuant to state or federal law.

9 (2) Confidential information and reports shall only be used for
10 purposes authorized by the Marijuana Control Act or for any other state
11 or local law enforcement purpose. Any customer information may be used
12 only for a purpose authorized by the Marijuana Control Act.

13 (3) A person who discloses confidential records or information in
14 violation of the Marijuana Control Act shall be guilty of a Class II
15 misdemeanor.

16 Sec. 91. (1) Beginning on the implementation date, a person may
17 apply for a license under the Marijuana Control Act. An application for
18 issuance or renewal of a license shall be in the form and manner required
19 by the commission, shall be accompanied by the fee required by section 92
20 of this act, and shall be verified by oath or affirmation of the persons
21 prescribed by the commission.

22 (2) An application for issuance or renewal of a license shall
23 include:

24 (a) The name and address of the applicant and how long the applicant
25 has resided in Nebraska;

26 (b) The names and addresses of the applicant's officers, directors,
27 or managers;

28 (c) The particular premises for which a license is desired
29 designating the premises by street and number, if practicable, or by such
30 other description as definitely locates the premises;

31 (d) The name of the owner of the premises upon which the business

1 licensed is to be carried on;

2 (e) A statement that the applicant is a resident of Nebraska and
3 legally able to work in Nebraska, that the applicant and the spouse of
4 the applicant are not less than twenty-one years of age, and that such
5 applicant has never been convicted of or pleaded guilty or nolo
6 contendere to a disqualifying offense;

7 (f) A statement that the applicant intends to carry on the business
8 authorized by the license on the applicant's own behalf and not as the
9 agent of any other person and that if licensed the applicant will carry
10 on such business on the applicant's own behalf and not as the agent for
11 any other person;

12 (g) A statement that the applicant intends to superintend in person
13 the management of the business licensed and that if so licensed the
14 applicant will superintend in person the management of the business;

15 (h) If the applicant is a social equity applicant, information to
16 establish eligibility as such as determined by the commission; and

17 (i) Such other information as the commission may from time to time
18 direct.

19 (3)(a) An applicant for initial issuance shall also submit two
20 legible sets of fingerprints to be furnished to the Federal Bureau of
21 Investigation through the Nebraska State Patrol for a national criminal
22 history record check and the fee for such record check payable to the
23 patrol. The applicant shall authorize release of the national criminal
24 history record check to the commission.

25 (b) The commission may require an applicant for renewal to comply
26 with subdivision (3)(a) of this section when there is a demonstrated
27 investigative need.

28 (4)(a) An application for issuance of a license shall be accompanied
29 by plans and specifications for the interior of any building on the
30 licensed premises, if the building to be occupied is in existence at the
31 time of the application. If such building is yet to be constructed, the

1 applicant shall file a plot plan and a detailed sketch for the interior
2 and submit an architect's drawing of the building to be constructed.

3 (b) The commission shall not issue or renew a license until it is
4 established that the applicant is, or will be, entitled to possession of
5 the premises for which application is made under a lease, rental
6 agreement, or other arrangement for possession of the premises or by
7 virtue of ownership of the premises.

8 (5) If any false statement is made in any part of an application,
9 the applicant shall be deemed guilty of perjury, and upon conviction
10 thereof the license shall be revoked and the applicant subjected to the
11 penalties set forth in section 28-915.

12 Sec. 92. (1) An application for initial issuance of a license shall
13 be accompanied by a nonrefundable application fee and a refundable
14 initial issuance fee. If issuance of the license is denied, or if after
15 application and with the commission's permission, the applicant withdraws
16 an application, the initial issuance fee shall be refunded. Except as
17 provided in subsections (3), (4), (5), and (6) of this section, the fees
18 for application for initial issuance of a license shall be:

<u>Type of License</u>	<u>Application Fee,</u> <u>in Dollars</u>	<u>Initial Issuance</u> <u>Fee, in Dollars</u>	<u>Total Due at</u> <u>Application,</u> <u>in Dollars</u>
<u>Marijuana Store</u>	<u>5,000</u>	<u>2,000</u>	<u>7,000</u>
<u>Cultivator</u>	<u>5,000</u>	<u>1,500</u>	<u>6,500</u>
<u>Products</u>	<u>5,000</u>	<u>1,500</u>	<u>6,500</u>
<u>Manufacturer</u>	<u>5,000</u>	<u>1,500</u>	<u>6,500</u>
<u>Testing Facility</u>	<u>1,000</u>	<u>1,500</u>	<u>2,500</u>
<u>Transporter</u>	<u>1,000</u>	<u>4,400</u>	<u>5,400</u>

28 (2) An application for renewal of a license shall be accompanied by
29 a nonrefundable application fee and a refundable renewal fee. If renewal
30 of the license is denied, or if after application and with the
31 commission's permission, the applicant withdraws an application, the

1 renewal fee shall be refunded. Except as provided in subsections (3),
2 (5), and (6) of this section, the fees for application for renewal of a
3 license shall be:

4	<u>Type of License</u>	<u>Application Fee,</u>	<u>Initial Issuance</u>	<u>Total Due at</u>
5		<u>in Dollars</u>	<u>Fee, in Dollars</u>	<u>Application,</u>
6				<u>in Dollars</u>
7	<u>Marijuana Store</u>	<u>300</u>	<u>1,500</u>	<u>1,800</u>
8	<u>Cultivator</u>	<u>300</u>	<u>1,500</u>	<u>1,800</u>
9	<u>Products</u>			
10	<u>Manufacturer</u>	<u>300</u>	<u>1,500</u>	<u>1,800</u>
11	<u>Testing Facility</u>	<u>300</u>	<u>1,500</u>	<u>1,800</u>
12	<u>Transporter</u>	<u>300</u>	<u>4,400</u>	<u>4,700</u>

13 (3) Beginning January 1, 2025, and on each fifth occurrence of
14 January 1 thereafter, the commission shall adjust the upper fee limit of
15 any fee set forth in this section to reflect the percentage change for
16 such five-year period in the Consumer Price Index for All Urban Consumers
17 published by the United States Department of Labor, Bureau of Labor
18 Statistics. If the amount so adjusted is not a multiple of one hundred
19 dollars, the amount shall be rounded to the nearest multiple of one
20 hundred dollars.

21 (4) Until January 1, 2024, the commission may raise the application
22 fee for applications for initial issuance of a license, for a specific
23 type or types of licenses or for all license types, if the commission
24 determines that a greater fee is necessary to carry out the commission's
25 responsibilities under the Marijuana Control Act. Such increase shall
26 remain in effect beyond January 1, 2024, unless reduced by the
27 commission.

28 (5) The commission may, by rule and regulation, create tiers of
29 cultivator licenses based upon the size of the licensee's operation and
30 may provide for greater or lesser application or licensing fees based
31 upon such tier, subject to the other limits on fees in this section. The

1 classification may be based upon square footage of the facility; lights,
2 lumens, or wattage; lit canopy; the number of cultivating plants; a
3 combination of the foregoing; or other reasonable metrics.

4 (6)(a) The commission shall waive fifty percent of all fees under
5 subsection (1) or (2) of this section for a social equity applicant if
6 the applicant, any person with an ownership interest of ten percent or
7 more in the applicant, or any parent company, subsidiary, or affiliate of
8 the applicant:

9 (i) Has less than a total of seven hundred fifty thousand dollars in
10 income in the previous calendar year; and

11 (ii) Has no more than two other licenses.

12 (b) An applicant seeking a fee waiver under this subsection shall
13 attest that the applicant meets the requirements of this subsection and
14 provide evidence of income and other eligibility requirements to the
15 commission in a form and manner prescribed by the commission.

16 (c) If the commission determines that an applicant who sought a fee
17 waiver under this subsection is not eligible for the waiver, the
18 applicant shall have an additional ten days to provide additional
19 evidence of eligibility, to pay the remainder of the waived fee, or to
20 withdraw the application.

21 (d) If a licensee who has been granted a fee waiver under this
22 section transfers ownership of the license, within five years after its
23 initial issuance, to a person who does not apply and qualify for a fee
24 waiver in a manner prescribed by the commission, the commission shall not
25 approve the transfer of the license unless the transferee pays to the
26 commission the balance of any waived fees.

27 (7) Application and licensing fees paid to the commission shall be
28 remitted to the State Treasurer for credit as follows:

29 (a) Fifty percent to the Marijuana Control Fund; and

30 (b) Fifty percent shall be transferred to the local governing body
31 with jurisdiction over the licensee.

1 (8) On or before September 1, 2022, the commission shall adopt and
2 promulgate rules and regulations as necessary to carry out this section.

3 Sec. 93. Upon receipt of an application for issuance or renewal of
4 a license, the commission shall notify the city clerk, village clerk, or
5 county clerk of the local governing body in whose jurisdiction the
6 license is sought and shall include one copy of the application with the
7 notice. No such license shall be issued or denied by the commission until
8 the expiration of the time allowed for the receipt of a recommendation of
9 denial or an objection requiring a hearing under subdivision (1)(a) or
10 (b) of section 96 of this act. During the period of forty-five days after
11 the date of receipt by mail or electronic delivery of such application
12 from the commission, the local governing body may submit recommendations
13 to the commission regarding issuance or renewal of such license.

14 Sec. 94. (1) If no hearing is required pursuant to subdivision (1)
15 (a) or (b) of section 96 of this act and the commission has no objections
16 pursuant to subdivision (1)(c) of such section, the commission may waive
17 the forty-five-day objection period and, if not otherwise prohibited by
18 law, issue or renew a license as a matter of course.

19 (2) A license may be issued if the commission finds that:

20 (a) The applicant is fit, willing, and able to properly provide the
21 service proposed within the city, village, or county where the premises
22 described in the application are located;

23 (b) The applicant can conform to all provisions and requirements of
24 and rules and regulations adopted pursuant to the Marijuana Control Act;

25 (c) The applicant has demonstrated that the type of management and
26 control to be exercised over the premises described in the application
27 will be sufficient to ensure that the licensed business can conform to
28 all provisions and requirements of and rules and regulations adopted
29 pursuant to the act; and

30 (d) The issuance of the license is or will be required by the
31 present or future public convenience and necessity.

1 (3) In making its determination pursuant to subsection (2) of this
2 section the commission shall consider:

3 (a) The recommendation of the local governing body;

4 (b) The existence of a citizens' protest made in accordance with
5 section 96 of this act;

6 (c) The existing population of the city, village, or county and its
7 projected growth;

8 (d) The nature of the neighborhood or community of the location of
9 the proposed licensed premises;

10 (e) The existence or absence of other licensees with similar
11 privileges within the neighborhood or community of the location of the
12 proposed licensed premises and whether, as evidenced by substantive,
13 corroborative documentation, the issuance of such license would result in
14 or add to an undue concentration of licenses with similar privileges and,
15 as a result, require the use of additional law enforcement resources;

16 (f) The existing motor vehicle and pedestrian traffic flow in the
17 vicinity of the proposed licensed premises;

18 (g) The adequacy of existing law enforcement;

19 (h) Zoning restrictions;

20 (i) The sanitation or sanitary conditions on or about the proposed
21 licensed premises;

22 (j) Whether the type of business or activity proposed to be operated
23 in conjunction with the proposed license is and will be consistent with
24 the public interest;

25 (k) The long-term financial stability of the applicant;

26 (l) The ability of the applicant to provide appropriate security
27 measures; and

28 (m) When relevant, the technical expertise of the applicant.

29 (4) Licenses issued or renewed by the commission shall be mailed or
30 delivered to the clerk of the city, village, or county who shall deliver
31 the license to the licensee upon receipt from the licensee of proof of

1 payment of:

2 (a) Any fee for publication of notice of hearing before the local
3 governing body upon the application for the license; and

4 (b) Occupation or other taxes, if any, imposed by such city,
5 village, or county.

6 Sec. 95. (1) Twenty percent of all licenses granted by the
7 commission shall be to social equity applicants.

8 (2) Licensees who are social equity applicants shall annually report
9 to the commission, in a form and manner prescribed by the commission,
10 information that will allow the commission to assess the extent of
11 diversity in various aspects of the marijuana industry and to identify
12 methods for reducing and eliminating barriers to entry.

13 (3) The commission, in consultation with the Department of Economic
14 Development, shall provide technical assistance and support to persons
15 wishing to apply as social equity applicants in preparing applications
16 and obtaining licensure.

17 (4) On or before January 1, 2024, and annually thereafter, the
18 commission shall electronically submit a report to the Legislature
19 regarding social equity in the marijuana industry. The report shall
20 include data regarding the numbers of licensees who are social equity
21 applicants, the numbers of applications by social equity applicants
22 granted and denied, and recommendations on increasing diversity in the
23 marijuana industry and reducing or eliminating barriers to entry.

24 Sec. 96. (1) The commission shall set for hearing before it any
25 application for issuance or renewal of a license, relative to which it
26 has received:

27 (a) Within forty-five days after the date of receipt of such
28 application by the city, village, or county clerk, a recommendation of
29 denial from the city, village, or county;

30 (b) Within ten days after the receipt of a recommendation from the
31 city, village, or county, or, if no recommendation is received, within

1 forty-five days after the date of receipt of such application by the
2 city, village, or county clerk, objections in writing by not less than
3 three persons residing within such city, village, or county, protesting
4 the issuance of the license. Withdrawal of the protest does not prohibit
5 the commission from conducting a hearing based upon the protest as
6 originally filed and making an independent finding as to whether the
7 license should or should not be issued; or

8 (c) Within forty-five days after the date of receipt of such
9 application by the city, village, or county clerk, objections by the
10 commission or any duly appointed employee of the commission, protesting
11 the issuance of the license;

12 (2) Hearings upon such applications shall be in the following
13 manner: Notice indicating the time and place of such hearing shall be
14 mailed or electronically delivered to the applicant, the local governing
15 body, and each individual protesting a license pursuant to subdivision
16 (1)(b) of this section at least fifteen days prior to such hearing. The
17 notice shall state that the commission will receive evidence for the
18 purpose of determining whether to approve or deny the application.
19 Mailing or electronic delivery to the attorney of record of a party shall
20 be deemed to fulfill the purposes of this section. The commission may
21 receive evidence, including testimony and documentary evidence, and may
22 hear and question witnesses concerning the application. The commission
23 shall not use electronic delivery with respect to an applicant or a
24 protestor under this section without the consent of the recipient to
25 electronic delivery.

26 (3) In conducting a hearing under this section, the commission may
27 administer oaths and issue subpoenas to require the presence of persons
28 and the production of papers, books, and records necessary to the
29 determination of any hearing.

30 Sec. 97. (1) In addition to the factors set forth in section 94 of
31 this act, the commission may deny issuance or renewal of a license for

1 good cause.

2 (2) For purposes of this section, good cause means:

3 (a) The licensee or applicant has violated, does not meet, or has
4 failed to comply with any of the terms, conditions, or provisions of the
5 Marijuana Control Act, any rules and regulations adopted and promulgated
6 thereunder, or any local ordinance;

7 (b) The licensee or applicant has made a materially false statement
8 to the commission;

9 (c) The licensee or applicant has failed to comply with any special
10 terms or conditions that were placed on its license pursuant to an order
11 of the commission; or

12 (d) The licensed premises have been operated in a manner that
13 adversely affects the public health or the safety of the immediate
14 neighborhood in which the establishment is located.

15 Sec. 98. A license provided by the Marijuana Control Act shall not
16 be issued to or held by:

17 (1) Any person who has been convicted of or pleaded guilty or nolo
18 contendere to a disqualifying offense;

19 (2) A person or entity if any of its officers, directors,
20 stockholders, or owners have been convicted of or pleaded guilty or nolo
21 contendere to a disqualifying offense;

22 (3) A person financed in whole or in part by any other person who
23 has been convicted of or pleaded guilty or nolo contendere to a
24 disqualifying offense;

25 (4) A person under twenty-one years of age;

26 (5) A licensee or former licensee who, during a period of licensure,
27 or who, at the time of application, has failed to:

28 (a) File any tax return related to a licensee; or

29 (b) Pay any taxes, interest, or penalties due, as determined by
30 final agency action, relating to a licensee;

31 (6) Any state, county, municipality, or other political unit, any

1 branch, department, agency, or subdivision of any of the foregoing, and
2 any corporation or other entity established by law to carry out any
3 governmental function;

4 (7) A peace officer, employee of a jail or the Department of
5 Corrections, or an official or employee of a local governing body;

6 (8) A person who is not a resident of Nebraska or not legally able
7 to work in Nebraska; or

8 (9) A publicly traded company.

9 Sec. 99. A license is valid for a period of one year after the date
10 of issuance unless revoked or suspended pursuant to the Marijuana Control
11 Act or the rules and regulations adopted and promulgated thereunder.

12 Sec. 100. Each license issued under the Marijuana Control Act
13 shall:

14 (1) Specify the date of issuance, the type of license, the period of
15 licensure, the name of the licensee, and the premises licensed; and

16 (2) Be signed by the chairperson of the commission and attested by
17 the executive director over the seal of the commission.

18 Sec. 101. (1) At all times, a licensee shall possess and maintain
19 possession of the premises for which the license is issued by ownership,
20 lease, rental, or other arrangement for possession of the premises.

21 (2) At all times, a licensee shall maintain a copy of the license in
22 a conspicuous place on the licensed premises.

23 Sec. 102. (1) Each licensee shall personally manage the licensed
24 premises or employ a separate and distinct manager on the licensed
25 premises and shall report the name of the manager to the commission.

26 (2) The licensee shall report any change in manager to the
27 commission within seven days after the change.

28 Sec. 103. (1) Ninety days prior to the expiration date of an
29 existing license, the commission shall notify the licensee of the
30 expiration date by first-class mail at the licensee's address of record
31 with the commission.

1 (2) A licensee may apply for the renewal of an existing license to
2 the commission not earlier than thirty days prior to the date of
3 expiration. The commission, in its discretion, subject to the
4 requirements of this section and based upon reasonable grounds, may waive
5 this requirement.

6 (3)(a) A licensee whose license has been expired for not more than
7 ninety days may file a late renewal application upon the payment to the
8 commission of an additional nonrefundable late application fee of five
9 hundred dollars.

10 (b) A licensee who files a late renewal application and pays the
11 requisite fees may continue to operate until the commission takes final
12 action to approve or deny the licensee's late renewal application unless
13 the commission summarily suspends the license.

14 Sec. 104. (1) A license is not transferable without approval of the
15 commission as provided in this section. An application for transfer of
16 ownership of a license shall be in the form and manner required by the
17 commission, shall be accompanied by a nonrefundable fee of one thousand
18 dollars, and shall be verified by oath or affirmation of the persons
19 prescribed by the commission.

20 (2) An application for transfer of ownership shall include:

21 (a) The name and address of each party and how long the transferee
22 has resided in Nebraska;

23 (b) The names and addresses of the transferee's officers, directors,
24 or managers;

25 (c) The particular premises of the licensed premises, designating
26 the premises by street and number if practicable or, if not, by such
27 other description as definitely locates the premises;

28 (d) The name of the owner of the premises upon which the business
29 licensed is to be carried on;

30 (e) A statement that each party is a resident of Nebraska and
31 legally able to work in Nebraska, that each party and the spouse of each

1 party are not less than twenty-one years of age, and that neither party
2 has been convicted of or pleaded guilty or nolo contendere to a
3 disqualifying offense;

4 (f) A statement that the transferee intends to carry on the business
5 authorized by the license on its own behalf and not as the agent of any
6 other persons and that if licensed, the transferee will carry on such
7 business on its own behalf and not as the agent for any other person;

8 (g) A statement that the transferee intends to superintend in person
9 the management of the business licensed and that if licensed the
10 transferee will superintend in person the management of the business; and

11 (h) Such other information as the commission may direct.

12 (3) If any false statement is made in any part of an application,
13 the applicant shall be deemed guilty of perjury, and upon conviction
14 thereof the license shall be revoked and the applicant subjected to the
15 penalties set forth in section 28-915.

16 (4) Upon receipt of an application, the transfer shall be considered
17 in the same manner as provided for applications for issuance or renewal
18 of a license as set forth in sections 92 to 97 of this act, except that
19 the commission may by rule or regulation modify or streamline the
20 procedures or requirements, or the factors to be considered in granting
21 transfer of ownership in light of the fact that the licensed premises is
22 already in operation.

23 Sec. 105. (1) A licensee shall not relocate the licensed premises
24 from the place specified in the license without approval of the
25 commission as provided in this section. An application for relocation of
26 a licensed premises shall be in the form and manner required by the
27 commission, shall be accompanied by a nonrefundable fee of one thousand
28 dollars, and shall be verified by oath or affirmation of the persons
29 prescribed by the commission.

30 (2) An application for relocation of a licensed premises shall
31 include:

1 (a) The name and address of the applicant;

2 (b) The names and addresses of the applicant's officers, directors,
3 or managers;

4 (c) The current location of the licensed premises, designating the
5 same by street and number if practicable or, if not, by such other
6 description as definitely locates the licensed premises;

7 (d) The location to which the licensed premises is sought to be
8 relocated, designating the licensed premises by street and number if
9 practicable or, if not, by such other description as definitely locates
10 the new location;

11 (e) The name of the owner of the premises to which the licensed
12 premises is sought to be relocated; and

13 (f) Such other information as the commission may direct.

14 (3) If any false statement is made in any part of an application,
15 the applicant shall be deemed guilty of perjury, and upon conviction
16 thereof the license shall be revoked and the applicant subjected to the
17 penalties set forth in section 28-915.

18 (4) Upon receipt of an application, the relocation shall be
19 considered in the same manner as provided for applications for issuance
20 or renewal of a license as set forth in sections 92 to 97 of this act.

21 Sec. 106. The commission, in its discretion, may revoke or elect
22 not to renew any license if it determines that the licensed premises have
23 been inactive, without good cause, for at least one year.

24 Sec. 107. A local governing body shall have the following powers,
25 functions, and duties with respect to licenses:

26 (1) To revoke for cause a license, issued to persons for premises
27 within its jurisdiction, subject to the right of appeal to the
28 commission;

29 (2) To enter or to authorize any peace officer to enter at any time
30 upon any licensed premises to determine whether any provision of the
31 Marijuana Control Act, any rule or regulation adopted and promulgated

1 thereunder, or any ordinance has been or is being violated and at such
2 time examine the licensed premises in connection with such determination.
3 Any peace officer who determines that the act, any rule or regulation
4 adopted and promulgated thereunder, or any ordinance has been or is being
5 violated shall report such violation in writing to the executive director
6 (a) within thirty days after determining that such violation has
7 occurred, (b) within thirty days after the conclusion of an ongoing
8 police investigation, or (c) within thirty days after the verdict in a
9 prosecution related to such an ongoing police investigation if the
10 prosecuting attorney determines that reporting such violation prior to
11 the verdict would jeopardize such prosecution, whichever is later;

12 (3) To receive a signed complaint from any citizen within its
13 jurisdiction that any provision of the act, any rule or regulation
14 adopted and promulgated thereunder, or any ordinance relating to
15 marijuana has been or is being violated and to act upon such complaints
16 in the manner provided in the act;

17 (4) To examine or cause to be examined any applicant or any licensee
18 upon whom notice of revocation or other sanction has been served as
19 provided in the act, to examine or cause to be examined the books and
20 records of any applicant or licensee, and to hear testimony and to take
21 proof for its information in the performance of its duties. For purposes
22 of obtaining any of the information desired, the local governing body may
23 authorize its agent or attorney to act on its behalf;

24 (5) To revoke or impose sanctions on its own motion any license if,
25 upon the same notice and hearing as provided in section 109 of this act,
26 it determines that the licensee has violated the act, any rule or
27 regulation adopted and promulgated thereunder, or any ordinance relating
28 to marijuana. Such order of revocation or sanction may be appealed to the
29 commission within thirty days after the date of the order by filing a
30 notice of appeal with the commission. The commission shall handle the
31 appeal in the manner provided for hearing on an application in section 96

1 of this act; and

2 (6) Upon receipt from the commission of the notice and copy of
3 application as provided in section 93 of this act, to fix a time and
4 place for a hearing at which the local governing body shall receive
5 evidence, either orally or by affidavit from the applicant and any other
6 person, bearing upon the propriety of the issuance or renewal of a
7 license. Notice of the time and place of such hearing shall be published
8 in a legal newspaper in or of general circulation in such city, village,
9 or county one time not less than seven and not more than fourteen days
10 before the time of the hearing. Such notice shall include, but not be
11 limited to, a statement that all persons desiring to give evidence before
12 the local governing body in support of or in protest against the issuance
13 or renewal of such license may do so at the time of the hearing. Such
14 hearing shall be held not more than forty-five days after the date of
15 receipt of the notice from the commission, and after such hearing the
16 local governing body shall cause to be recorded in the minute record of
17 their proceedings a resolution recommending either issuance or refusal of
18 such license. The clerk of such city, village, or county shall mail to
19 the commission by first-class mail, postage prepaid, a copy of the
20 resolution which shall state the cost of the published notice, except
21 that failure to comply with this provision shall not void any license
22 issued by the commission. If the commission refuses to issue or renew
23 such a license, the cost of publication of notice shall be paid by the
24 commission from the security for costs.

25 Sec. 108. Any five residents of jurisdiction of the local governing
26 body in which a licensed premises is located shall have the right to file
27 a complaint with the local governing body stating that any licensee
28 subject to the jurisdiction of such local governing body has been or is
29 violating the Marijuana Control Act, any rule or regulation adopted and
30 promulgated thereunder, or any ordinance regulating marijuana. Such
31 complaint shall be in writing in the form prescribed by the local

1 governing body and shall be signed and sworn to by the parties
2 complaining. The complaint shall state the particular statute, rule or
3 regulation, or ordinance believed to have been violated and the facts in
4 detail upon which belief is based. If the local governing body is
5 satisfied that the complaint substantially charges a violation and that
6 from the facts alleged there is reasonable cause for such belief, it
7 shall set the matter for hearing within ten days from the date of the
8 filing of the complaint and shall serve notice upon the licensee of the
9 time and place of such hearing and of the particular charge in the
10 complaint. The complaint shall in all cases be disposed of by the local
11 governing body within thirty days from the date the complaint was filed
12 by resolution thereof, which resolution shall be deemed the final order
13 for purposes of appeal to the commission as provided in section 115 of
14 this act.

15 Sec. 109. (1) The commission may, on its own motion or on
16 complaint, after investigation and opportunity for a public hearing at
17 which the licensee must be afforded an opportunity to be heard, sanction
18 a licensee for a violation by the licensee or by its agents or employees
19 of the Marijuana Control Act, any rules and regulations adopted and
20 promulgated thereunder, any ordinance regulating marijuana, or of any of
21 the terms, conditions, or provisions of the license.

22 (2) The commission shall provide written notice of the hearing, by
23 mailing the notice to the licensee at the address contained in the
24 license and, if different, at the last address furnished to the
25 commission by the licensee.

26 (3) All proceedings for the suspension or revocation of a license or
27 imposition of other sanction against a licensee shall be before the
28 commission, and the proceedings shall be in accordance with rules and
29 regulations adopted and promulgated by the commission not inconsistent
30 with law.

31 (4) No licensee shall be subject to sanctions except after a hearing

1 by the commission with reasonable notice to the licensee and opportunity
2 to appear and defend.

3 (5) In conducting a hearing under this section, the commission may
4 administer oaths and issue subpoenas to require the presence of persons
5 and the production of papers, books, and records necessary to the
6 determination of any hearing.

7 (6) Any license may be summarily suspended by the commission without
8 notice pending any prosecution, investigation, or public hearing of a
9 licensee.

10 (7) If a licensee is convicted of or pleads guilty or nolo
11 contendere to a violation of the Marijuana Control Act, any rule or
12 regulation adopted and promulgated thereunder, or any ordinance
13 regulating marijuana, the court shall promptly notify the commission and
14 the local governing body.

15 Sec. 110. Upon the completion of any hearing held regarding
16 discipline of a license, the director may dismiss the action or impose
17 any of the following sanctions:

18 (1) Censure;

19 (2) Probation;

20 (3) Limitation;

21 (4) Civil penalty;

22 (5) Suspension for up to six months;

23 (6) Seizure of marijuana that is the subject of a violation of the
24 Marijuana Control Act; or

25 (7) Revocation.

26 Sec. 111. (1) If a civil penalty is imposed pursuant to section 110
27 of this act, it shall not exceed twenty thousand dollars.

28 (2) Any fine or civil penalty assessed and unpaid shall constitute a
29 debt to the State of Nebraska which may be collected in the manner of a
30 lien foreclosure or sued for and recovered in a proper form of action in
31 the name of the state in the district court of the county in which the

1 violation of the commission's rules and regulations, the
2 commission may also collect attorney's fees and costs incurred in the collection of the civil
3 penalty. The commission shall, within thirty days from receipt, remit any
4 collected civil penalty to the State Treasurer to be disposed of in
5 accordance with Article VII, section 5, of the Constitution of Nebraska.

6 Sec. 112. (1) If the commission determines that marijuana in the
7 possession of a licensee is involved in a violation of the Marijuana
8 Control Act, the rules and regulations of the commission, an ordinance
9 regulating marijuana, or any terms or conditions of a license, the
10 commission may declare such marijuana to be contraband and seize and
11 destroy or dispose of it in accordance with rules and regulations of the
12 commission. The commission may also seize and dispose of associated
13 property.

14 (2) Following issuance of a final decision by the commission
15 authorizing seizure and destruction of marijuana or associated property
16 of a licensee, the licensee shall have fifteen days to file a petition
17 for a stay. The petition shall be filed in the district court of
18 Lancaster County. The district court shall expeditiously issue a
19 preliminary ruling upon the petition determining whether the licensee has
20 a substantial likelihood of success on judicial review so as to warrant a
21 temporary stay of the seizure and destruction or disposal of the
22 marijuana and any associated property. If the court grants a temporary
23 stay, the court shall issue an order setting forth terms and conditions
24 pursuant to which the licensee may maintain possession of the marijuana
25 and associated property pending a final decision on the merits of the
26 licensee's petition. Such order shall prohibit the licensee from using,
27 distributing, or disposing of the marijuana and any associated property.

28 (3) If the licensee fails to timely file a petition under subsection
29 (2) of this section, the commission may destroy or dispose of the seized
30 marijuana and any associated property.

31 (4) A county attorney shall notify the commission if the county

1 attorney begins investigating a licensee for violations of the Marijuana
2 Control Act. Upon receipt of such a notification, the commission shall
3 not destroy or dispose of any marijuana or associated property of such
4 licensee until the county attorney has completed such investigation.

5 (5) For purposes of this section, associated property means
6 containers, equipment, supplies, and other property closely associated
7 with the conduct that is the subject of the violation.

8 Sec. 113. The state, local governments, and any state or local
9 agency shall not be required to cultivate or care for any marijuana
10 seized for a violation of the Marijuana Control Act.

11 Sec. 114. (1) A copy of the rule, regulation, order, or decision of
12 the commission denying an application or suspending, revoking, or
13 imposing another sanction against a licensee or of any notice required by
14 any proceeding before it, certified under the seal of the commission,
15 shall be served upon each party of record to the proceeding before the
16 commission. Service upon any attorney of record for any such party shall
17 be deemed to be service upon such party. Each party appearing before the
18 commission shall enter the party's appearance and indicate to the
19 commission the party's address for such service. The mailing of a copy of
20 any rule, regulation, order, or decision of the commission or of any
21 notice by the commission, in the proceeding, to such party at such
22 address shall be deemed to be service upon such party.

23 (2) Within thirty days after the service described in subsection (1)
24 of this section, such party may apply for a rehearing with respect to any
25 matters determined by the commission. The commission shall receive and
26 consider such application for a rehearing within thirty days after its
27 filing with the executive director of the commission. If such application
28 for rehearing is granted, the commission shall proceed as promptly as
29 possible to consider the matters presented by such application. No appeal
30 shall be allowed from any decision of the commission except as provided
31 in section 115 of this act.

1 (3) Upon final disposition of any proceeding, costs shall be paid by
2 the party or parties against whom a final decision is rendered. Only one
3 rehearing referred to in subsection (2) of this section shall be granted
4 by the commission on application of any one party.

5 (4) For purposes of this section, party of record means:

6 (a) The applicant or licensee;

7 (b) Any individual protesting pursuant to subdivision (1)(b) of
8 section 96 of this act;

9 (c) The local governing body if it is entering an appearance to
10 protest or requesting a hearing pursuant to subdivision (1)(c) of section
11 96 of this act; and

12 (d) The commission.

13 Sec. 115. Any order or decision by the commission granting or
14 denying issuance or renewal of a license, a request to transfer ownership
15 of a license, or a request to relocate a licensed premises; suspending,
16 revoking, or imposing another sanction against a licensee; or refusing to
17 suspend, revoke, or impose another sanction against a licensee may be
18 appealed in accordance with the Administrative Procedure Act.

19 Sec. 116. (1) A person holding the appropriate licenses may operate
20 as a marijuana store, cultivator, products manufacturer, and transporter
21 at the same location if approved by the commission and if the location is
22 within the jurisdiction of a local governing body that does not prohibit
23 such joint operations.

24 (2) A licensee operating a marijuana store as a joint operation
25 shall maintain separate licensed premises for such store, including
26 separate entrances, exits, inventories, point-of-sale operations, and
27 recordkeeping.

28 Sec. 117. (1) A local governing body may adopt ordinances
29 regulating state licensees that are more strict than those set forth in
30 the Marijuana Control Act. Such standards may include, but are not
31 limited to:

1 (a) Distance restrictions between licensed premises of any type or
2 the same type;

3 (b) A prohibition of joint operations under section 116 of this act;

4 (c) Reasonable restrictions on the size of a licensed premises; and

5 (d) Any other requirements necessary to ensure the local control of
6 licensees to aid enforcement of the Marijuana Control Act, ordinances, or
7 the terms and conditions of a license.

8 (2) Any ordinance regulating conduct authorized by the Marijuana
9 Control Act shall not make it unreasonably impracticable to operate as a
10 licensee, except that this restriction does not apply to a prohibition of
11 joint operations under section 116 of this act.

12 Sec. 118. Nothing in the Marijuana Control Act shall be construed
13 to limit a law enforcement agency's ability to investigate unlawful
14 activity in relation to a licensee.

15 Sec. 119. No licensee shall:

16 (1) Sell or transfer marijuana to any person under twenty-one years
17 of age;

18 (2) Allow any person under twenty-one years of age on its premises;
19 or

20 (3) Employ or retain persons under twenty-one years of age or
21 without an employment authorization.

22 Sec. 120. No licensee shall transport marijuana, in any form,
23 outside the State of Nebraska.

24 Sec. 121. (1) For purposes of this section:

25 (a) Escorted means appropriately checked into the limited access
26 area and accompanied by a person authorized by the commission; except
27 that trade craftspeople not normally engaged in the business of
28 cultivating, processing, or selling marijuana need not be accompanied on
29 a full-time basis, but only reasonably monitored; and

30 (b) Limited access area means a building, room, or other contiguous
31 area upon a licensed premises where marijuana is cultivated, stored,

1 weighed, packaged, or tested, under control of the licensee.

2 (2) Only those persons authorized by a commission and those visitors
3 escorted by a person authorized by the commission may enter a limited
4 access area. All areas of ingress or egress to limited access areas shall
5 be clearly identified as such by a sign as designated by the commission.

6 Sec. 122. All cultivation, processing, and manufacture of marijuana
7 shall:

8 (1) Take place at a licensed premises approved by the commission and
9 within an area that is enclosed and locked in a manner that restricts
10 access only to persons authorized to access that area. The area may be
11 uncovered only if it is enclosed with security fencing that is designed
12 to prevent unauthorized entry and that is at least ten feet high;

13 (2) Not be visible from a public place by normal unaided vision; and

14 (3) Take place on property in the licensee's lawful possession or
15 with the consent of the person in lawful physical possession of the
16 property.

17 Sec. 123. Each licensee shall:

18 (1) Secure every entrance to the licensed premises so that access to
19 areas containing marijuana is restricted to persons authorized to possess
20 marijuana; and

21 (2) Secure the inventory and equipment of the licensed premises
22 during and after operating hours to deter and prevent theft of marijuana.

23 Sec. 124. (1) Each licensee shall keep a complete set of all
24 records necessary to fully show the business transactions of the
25 licensee, all of which shall be open at all times during business hours
26 for the inspection and examination by the commission or its designee.

27 (2) The commission may require any licensee to furnish such
28 information as the commission considers necessary for the proper
29 administration of the Marijuana Control Act and may require an audit to
30 be made of the books of account and records on such occasions as the
31 commission may consider necessary by an auditor to be selected by the

1 commission who shall likewise have access to all books and records of the
2 licensee, and the expense thereof shall be paid by the licensee.

3 (3) The commission or its designee may examine and inspect or
4 provide for the examination and inspection of any licensee, licensed
5 premises, or the records or operations of any licensee in such manner and
6 at such times as provided in rules and regulations adopted and
7 promulgated by the commission. The commission shall issue an examination
8 and inspection report and provide a copy of the report to the licensee
9 within ten working days after the completion of an examination and
10 inspection. The commission shall then post a copy of the report on its
11 web site.

12 (4) The refusal, impediment, obstruction, or interference with an
13 inspection of the licensed premises or records of a licensee by a
14 licensee or its agent or employee is a violation of the Marijuana Control
15 Act.

16 (5) If a licensee or an agent or employee of a licensee fails to
17 maintain or provide the records required pursuant to the Marijuana
18 Control Act, the licensee shall be subject to a citation and fine of up
19 to fifteen thousand dollars per individual violation.

20 Sec. 125. (1) Every sale or transfer of marijuana from one licensee
21 to another licensee shall be recorded on a sales invoice or receipt.
22 Sales invoices and receipts may be maintained electronically. Sales
23 invoices and receipts shall:

24 (a) Be filed in such manner as to be readily accessible for
25 examination by employees of the commission; and

26 (b) Shall not be commingled with invoices covering other
27 commodities.

28 (2) Each sales invoice or receipt shall include the name and address
29 of the seller and shall include the following information:

30 (a) Name and address of the purchaser;

31 (b) Date and sale of invoice and number;

1 (c) Kind, quantity, size, and capacity of packages of marijuana
2 sold;

3 (d) The cost to the purchaser, together with any discount applied to
4 the price as shown on the invoice;

5 (e) The place from which transport of the marijuana was made unless
6 transport was made from the premises of the licensee; and

7 (f) Any other information specified by the commission.

8 Sec. 126. (1) The commission may establish limitations on marijuana
9 cultivation through one or more of the following methods:

10 (a) Placing or modifying a limit on the number of licenses that it
11 issues, by class or overall. However, in placing or modifying the limits,
12 the commission shall consider the reasonable availability of new licenses
13 after a limit is established or modified;

14 (b) Placing or modifying a limit on the amount of production
15 permitted by cultivators; and

16 (c) Placing or modifying a limit on the total amount of production
17 by cultivators in the state collectively.

18 (2) When considering any such limitations, the commission shall:

19 (a) Consider the total current and anticipated demand for marijuana
20 in Nebraska;

21 (b) Consider any other relevant factors; and

22 (c) Attempt to minimize the market for unlawful marijuana.

23 Sec. 127. Any licensee may provide a sample of its marijuana or
24 marijuana products to a testing facility for testing and research
25 purposes. The licensee shall maintain a record of what was provided to
26 the testing facility, the identity of the testing facility, and the
27 testing results.

28 Sec. 128. The commission shall adopt and promulgate rules and
29 regulations for testing requirements for testing facilities. The
30 commission may adopt standards based on those of the International
31 Organization for Standardization. The testing requirements shall include:

- 1 (1) Determining accurately, with respect to marijuana:
2 (a) The concentration of THC and cannabidiol;
3 (b) The presence and identification of mold and fungus;
4 (c) The composition; and
5 (d) The presence of chemicals, including, but not limited to,
6 pesticides, herbicides, or growth regulators; and
7 (2) Demonstrating the validity and accuracy of the methods used to
8 test marijuana.

9 Sec. 129. The commission may adopt and promulgate rules and
10 regulations that limit the amount of marijuana inventory that a marijuana
11 store may have on hand. Any such limitation must be commercially
12 reasonable and consider factors including a store's sales history.

13 Sec. 130. Every marijuana store shall display at all times in a
14 prominent place a printed sign with a minimum height of twenty inches and
15 a width of fourteen inches, with each letter to be a minimum one-fourth
16 inch in height, which shall read as follows:

17 WARNING TO PERSONS UNDER 21: YOU ARE SUBJECT TO NOTIFICATION OF
18 PARENTS OR GUARDIAN AND YOU ARE SUBJECT TO A PENALTY OF UP TO \$500 FINE,
19 3 MONTHS IN JAIL, OR BOTH IF YOU ARE UNDER 21 AND YOU CONSUME, PURCHASE,
20 ATTEMPT TO PURCHASE, OR HAVE IN YOUR POSSESSION MARIJUANA OR MARIJUANA
21 PRODUCTS IN THIS ESTABLISHMENT.

22 WARNING TO ADULTS: YOU ARE SUBJECT TO A PENALTY OF UP TO \$1,000
23 FINE, 1 YEAR IN JAIL, OR BOTH, IF YOU ARE 21 OR OVER AND YOU PURCHASE
24 MARIJUANA OR MARIJUANA PRODUCTS FOR A PERSON UNDER 21.

25 Sec. 131. A display case in a marijuana store containing
26 concentrated marijuana must include the potency of the concentrated
27 marijuana next to the name of the product.

28 Sec. 132. (1) No person shall add harmful additives to any
29 marijuana or marijuana product, including, but not limited to, those that
30 are toxic, designed to make the product addictive, designed to make the
31 product appealing to children, or misleading to consumers. This section

1 does not prohibit the addition of common baking or cooking ingredients.

2 (2) No person shall sell marijuana mixed with nicotine or alcohol.

3 Sec. 133. No licensee shall cultivate, manufacture, sell, or
4 otherwise transact business with any products containing cannabinoids
5 other than those that were produced, distributed, and taxed in compliance
6 with the Marijuana Control Act or the Nebraska Hemp Farming Act.

7 Sec. 134. A products manufacturer shall:

8 (1) Process and prepare marijuana into a form allowable under the
9 Marijuana Control Act prior to distribution to any marijuana store or
10 other products manufacturer; and

11 (2) Contract with an independent testing facility, subject to
12 approval by the commission, for purposes of testing products made by the
13 products manufacturer as to chemical composition, contamination, and
14 consistency.

15 Sec. 135. The commission shall adopt and promulgate rules and
16 regulations for the packaging of marijuana, marijuana products, and
17 concentrated marijuana which shall include:

18 (a) Special packaging requirements to protect children from
19 ingesting or consuming marijuana;

20 (b) Requirements for dividing each serving within a package
21 containing multiple servings in a manner that allows consumers to easily
22 identify a single serving;

23 (c) Requirements to ensure that packaging and labels are not
24 attractive to children.

25 Sec. 136. (1) Prior to transfer or sale to a consumer by a
26 marijuana store, all marijuana, marijuana products, and concentrated
27 marijuana shall be labeled and placed in an opaque, resealable, and
28 child-resistant package in accordance with the Marijuana Control Act and
29 all rules and regulations adopted and promulgated thereunder.

30 (2) For purposes of this section:

31 (a) Opaque means that the packaging does not allow the product to be

1 seen without opening the packaging material; and

2 (b) Resealable means that the package continues to function within
3 effectiveness specifications, which shall be established by the
4 commission, similar to the federal Poison Prevention Packaging Act of
5 1970, 15 U.S.C. 1471 et seq., as such act existed on January 1, 2021, for
6 the number of opening and closings customary for its size and contents,
7 which shall be determined by the commission.

8 Sec. 137. The label required by section 136 of this act shall
9 include the following information prominently displayed in a clear and
10 legible fashion and in a font size no smaller than nine-point Arial or
11 ten-point Times New Roman:

12 (1) The source and date of cultivation, the type of product, and the
13 date of manufacturing and packaging.

14 (2) Text warning of the unidentified health risks that reads:
15 "Warning: This product has intoxicating effects. There may be health
16 risks associated with consumption of this product.";

17 (3) If the marijuana is intended for consumption by smoking, text
18 stating "Smoking is hazardous to your health.";

19 (4) Text warning of the risks of addiction or dependence that reads:
20 "May be habit forming and addictive.";

21 (5) Text that makes clear the age requirement that reads: "For use
22 only by adults aged 21 years and older. Keep out of reach of children.";

23 (6) Text warning of the risks to vulnerable populations that reads:
24 "There may be additional health risks associated with the consumption of
25 this product for women who are pregnant, breastfeeding, or planning on
26 becoming pregnant.";

27 (7) Text that reads: "Marijuana impairs concentration, coordination,
28 and judgment. It is illegal to drive a motor vehicle while under the
29 influence of marijuana.";

30 (8) Text that reads: "This product is a controlled substance under
31 federal law. This product may be unlawful outside the State of

1 Nebraska.;

2 (9) A list of any solvents, nonorganic pesticides, herbicides, and
3 fertilizers that were used in the cultivation, production, and
4 manufacture of such marijuana, marijuana product, or concentrated
5 marijuana;

6 (10) For marijuana products and concentrated marijuana, a list of
7 the pharmacologically active ingredients, including, but not limited to,
8 tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid
9 content; the THC and other cannabinoid amount in milligrams per serving;
10 servings per package; the THC and other cannabinoid amount in milligrams
11 for the package total; and the potency of marijuana by reference to the
12 amount of tetrahydrocannabinol and cannabidiol in each serving; and

13 (11) Any other information or statement required by the commission.

14 Sec. 138. The principal display area of any packaging or label
15 required by section 136 of this act shall:

16 (1) Include a universal symbol, established by the commission,
17 indicating the package contains marijuana; and

18 (2) Have text that reads: "Contains marijuana. Keep out of reach of
19 children."

20 Sec. 139. The label required under section 136 of this act shall,
21 for edible marijuana products:

22 (1) Have text that reads: "Caution: This product is infused with
23 marijuana. The intoxicating effects of this product may be delayed by two
24 or more hours.";

25 (2) List all ingredients and disclose nutritional information in the
26 same manner as the federal nutritional labeling requirements in 21 C.F.R.
27 101.9, as such section existed on January 1, 2021; and

28 (3) Shall include a warning if nuts or other allergens are used.

29 Sec. 140. The commission may by rule or regulation exempt multi-
30 serving liquid marijuana products from the labeling requirements of
31 section 137 of this act when such requirements are unreasonably

1 impracticable, if:

2 (1) The multi-serving liquid is packaged in a structure that uses a
3 single mechanism to achieve both child-resistance and accurate pouring
4 measurement of each liquid serving in increments equal to or less than
5 ten milligrams of active THC per serving, with no more than one hundred
6 milligrams of active THC total per package; and

7 (2) The measurement component is within the child-resistant cap or
8 closure of the bottle and is not a separate component.

9 Sec. 141. A sealed internal package of marijuana products shall
10 contain no more than one hundred milligrams of active THC.

11 Sec. 142. (1) The commission may issue a centralized distribution
12 permit to a cultivator authorizing temporary storage on its licensed
13 premises of concentrated marijuana and marijuana products received from a
14 products manufacturer for the sole purpose of transfer to the permit
15 holder's commonly owned marijuana stores.

16 (2) A cultivator may apply for a centralized distribution permit in
17 a form and manner prescribed by the commission. There shall be a
18 nonrefundable fee of twenty dollars for an application. The permit may be
19 renewed annually in a form and manner prescribed by the commission. There
20 shall be a nonrefundable renewal fee of twenty dollars.

21 (3) Prior to exercising the privileges of a centralized distribution
22 permit, a licensee shall, at the time of application to the commission,
23 send a copy of the application or supplemental application for a
24 centralized distribution permit to the local governing body in which the
25 licensed premises is located.

26 (4) The commission shall notify the local governing body of its
27 decision regarding the centralized distribution permit. The commission
28 may deny issuance or renewal of a permit for any reasons set forth in
29 section 97 of this act.

30 (5) The centralized distribution activities authorized by this
31 section shall occur on the licensed premises. All security and

1 surveillance requirements that otherwise apply to the licensed premises
2 apply to such activities.

3 (6) A licensee shall not store concentrated marijuana or marijuana
4 products pursuant to this section for more than ninety days.

5 (7) A licensee shall not accept any concentrated marijuana or
6 marijuana products pursuant to a centralized distribution permit unless
7 the concentrated marijuana or marijuana products are packaged and labeled
8 for sale to a consumer as required by the Marijuana Control Act and rules
9 and regulations of the commission.

10 (8) All concentrated marijuana and marijuana products stored and
11 prepared for transport on a cultivator's licensed premises pursuant to a
12 centralized distribution permit shall only be transferred to a
13 cultivator's commonly owned marijuana stores.

14 (9) All transfers of concentrated marijuana and marijuana products
15 by a licensee pursuant to a centralized distribution permit shall be:

16 (a) Without consideration; and

17 (b) Tracked in the licensee's seed-to-sale system.

18 (10) The commission shall adopt and promulgate rules and regulations
19 as necessary to carry out this section, including, but not limited to,
20 application requirements and procedures, recordkeeping requirements, and
21 restrictions and procedures for using a centralized distribution permit.

22 (11) For purposes of this section, commonly owned means licenses
23 that have an ownership structure with at least one natural person with a
24 minimum of five percent ownership in each license.

25 Sec. 143. (1) A person who has an interest in a testing facility
26 shall not have any interest in any marijuana store, cultivator, or
27 products manufacturer.

28 (2) A person that has an interest in a marijuana store, cultivator,
29 or products manufacturer shall not have any interest in a testing
30 facility.

31 Sec. 144. (1) Except as provided in subsection (2) of this section,

1 a license shall not be issued or renewed for a testing facility unless
2 the facility is accredited by a body that is itself recognized by the
3 International Laboratory Accreditation Cooperation in an appropriate
4 category of testing pursuant to the International Organization for
5 Standardization.

6 (2) The commission may by rule and regulation establish conditions
7 for providing extensions to a newly licensed testing facility to obtain
8 accreditation required by this section for a period not to exceed twelve
9 months. Extensions may be granted for good cause, which includes, but
10 shall not be limited to, when an application for accreditation has been
11 submitted and is pending with a recognized accrediting body.

12 Sec. 145. (1) Subject to this section, a licensee may provide
13 samples of marijuana to no more than five managers employed by the
14 licensee for purposes of quality control and product development. The
15 licensee may designate no more than five managers per calendar month as
16 such recipients.

17 (2)(a) A cultivator may provide a sample of marijuana and
18 concentrated marijuana to a manager.

19 (b) A sample authorized pursuant to this subsection is limited to
20 one gram of marijuana per batch and one-quarter gram of a concentrated
21 marijuana per batch, except that the limit is one-half gram of
22 concentrated marijuana if the intended use of the final product is to be
23 used in a device that can be used to deliver concentrated marijuana in a
24 vaporized form to the person inhaling from the device.

25 (c) A manager shall not receive more than one ounce total of
26 marijuana or eight grams of concentrated marijuana samples per calendar
27 month, regardless of the number of licenses that the manager is
28 associated with.

29 (3)(a) A products manufacturer may provide a sample of marijuana
30 products and concentrated marijuana to a manager.

31 (b) A sample authorized pursuant to this section is limited to one

1 serving size of an edible marijuana product not exceeding ten milligrams
2 of THC or its applicable equivalent serving size of nonedible marijuana
3 product and one-quarter gram of concentrated marijuana, except that the
4 limit is one-half gram of concentrated marijuana if the intended use of
5 the final product is to be used in a device that can be used to deliver
6 concentrated marijuana in a vaporized form to the person inhaling from
7 the device.

8 (c) A manager shall not receive more than a total of fourteen
9 individual serving-size edible marijuana products or its applicable
10 equivalent in nonedible marijuana products or eight grams of concentrated
11 marijuana per calendar month, regardless of the number of licenses that
12 the manager is associated with.

13 (4) A sample authorized pursuant to this section shall be labeled
14 and packaged pursuant to the rules and regulations of the commission.

15 (5) A sample provided pursuant to this section shall be tracked with
16 the seed-to-sale tracking system. Prior to a manager receiving a sample,
17 a manager must be designated in the seed-to-sale tracking system as a
18 recipient of quality control and product development samples. The
19 licensee shall maintain documentation of all samples and shall make the
20 documentation available to the commission upon request.

21 (6) Prior to a manager receiving a sample pursuant to this section,
22 the licensee shall provide a standard operating procedure to the manager
23 explaining requirements pursuant to the Marijuana Control Act and
24 personal possession limits.

25 (7) A manager shall not:

26 (a) Sell or transfer the sample to any other person; or

27 (b) Consume the sample on the licensed premises.

28 (8) A licensee shall not use samples under this section as a means
29 of compensation.

30 (9) The commission shall adopt and promulgate rules and regulations
31 to carry out this section, including, but not limited to, rules and

1 regulations regarding:

2 (a) The quantity limits set forth on samples in this section;

3 (b) Which employees qualify as managers for purposes of this
4 section; and

5 (c) If the commission deems it necessary, additional inventory
6 tracking and recordkeeping requirements.

7 Sec. 146. There shall be the following classes of licenses under
8 the Marijuana Control Act:

9 (1) Marijuana store;

10 (2) Cultivator;

11 (3) Products manufacturer;

12 (4) Testing facility; and

13 (5) Transporter.

14 Sec. 147. (1) A marijuana store may sell marijuana to consumers
15 twenty-one years of age and older and to other marijuana stores pursuant
16 to the requirements and restrictions of the Marijuana Control Act.

17 (2) A marijuana store may purchase marijuana from a cultivator, a
18 products manufacturer, or another marijuana store. A marijuana store may
19 cultivate its own marijuana if the licensee also obtains a cultivator
20 license.

21 (3) A marijuana store shall track all of its marijuana from the
22 point that it is transferred from a cultivator or products manufacturer
23 to the point of sale.

24 Sec. 148. (1) A marijuana store shall not sell to a consumer:

25 (a) More than one ounce of marijuana or its equivalent in marijuana
26 products or concentrated marijuana during a single transaction; or

27 (b) More than two ounces of marijuana or its equivalent in marijuana
28 products or concentrated marijuana within a twenty-four hour period.

29 (2) This section does not apply to nonedible, nonpsychoactive
30 marijuana products, including ointments, lotions, balms, and other
31 nontransdermal topical products.

1 (3) For purposes of this section, equivalent means the equivalent
2 amount established by the commission under section 82 of this act.

3 Sec. 149. (1) A marijuana store may only sell marijuana, marijuana
4 products, concentrated marijuana, marijuana accessories, nonconsumable
5 products such as apparel, and marijuana-related products, such as
6 childproof packaging containers.

7 (2) A marijuana store shall be prohibited from selling or giving
8 away any consumable product, including, but not limited to, cigarettes or
9 alcohol, or edible products that do not contain marijuana, including, but
10 not limited to, sodas, candies, or baked goods.

11 Sec. 150. A marijuana store may sell marijuana using an automatic
12 dispensing machine. Any such sales shall be done in compliance with rules
13 and regulations adopted and promulgated by the commission.

14 Sec. 151. A marijuana store shall not sell marijuana to a consumer
15 unless the consumer is physically present in the licensed premises.

16 Sec. 152. (1) A marijuana store shall not sell or transfer
17 marijuana to a consumer unless the consumer presents documentation which
18 reasonably appears to be a valid government-issued identification card
19 showing that the consumer is twenty-one years of age or older.

20 (2) If a person under twenty-one years of age presents a fraudulent
21 proof of age, any action reasonably relying on the fraudulent proof shall
22 not be grounds for the revocation or suspension of any license issued
23 under the Marijuana Control Act.

24 Sec. 153. (1) In order to further the public policy of deterring
25 licensees or other persons from violating section 41 of this act, a
26 person who is at least fifteen years of age but under twenty-one years of
27 age may assist a peace officer in determining compliance with such
28 section if:

29 (a) The parent or legal guardian of the person has given written
30 consent for the person to participate in such compliance check if such
31 person is under nineteen years of age;

1 (b) The person is an employee, a volunteer, or an intern with a
2 state or local law enforcement agency;

3 (c) The person is acting within the scope of such person's assigned
4 duties as part of a law enforcement investigation;

5 (d) The person does not use or consume marijuana as part of such
6 duties; and

7 (e) The person is not actively assigned to a diversion program, is
8 not a party to a pending criminal proceeding or a proceeding pending
9 under the Nebraska Juvenile Code, and is not on probation.

10 (2) Any person under the age of twenty-one years acting in
11 accordance with and under the authority of this subsection shall not be
12 in violation of section 38 or 39 of this act.

13 Sec. 154. (1) If an employee of a marijuana store has reasonable
14 cause to believe that a person is under twenty-one years of age and is
15 exhibiting fraudulent proof of age in an attempt to obtain any marijuana,
16 the employee is authorized to confiscate such fraudulent proof of age, if
17 possible, and shall, within seventy-two hours after the confiscation,
18 remit it to a state or local law enforcement agency.

19 (2) The failure to confiscate such fraudulent proof of age or to
20 remit to a state or local law enforcement agency within seventy-two hours
21 after the confiscation does not constitute a criminal offense.

22 (3) If an employee of a marijuana store has reasonable cause to
23 believe that a person is under twenty-one years of age and is exhibiting
24 fraudulent proof of age in an attempt to obtain any marijuana, the
25 employee or any peace officer, acting in good faith and upon probable
26 cause based upon reasonable grounds therefor, may detain and question
27 such person in a reasonable manner for the purpose of ascertaining
28 whether the person is guilty of any unlawful act regarding the purchase
29 or possession or attempted purchase or possession of marijuana.

30 (4) The questioning of a person by an employee or a peace officer
31 does not render the licensee, the employee, or the peace officer civilly

1 or criminally liable for slander, false arrest, false imprisonment,
2 malicious prosecution, or unlawful detention.

3 Sec. 155. (1) A cultivator may cultivate marijuana for sale to
4 marijuana stores, to products manufacturers, and to other cultivators,
5 but not to consumers, in accordance with the Marijuana Control Act.

6 (2) A cultivator shall track the marijuana it cultivates using a
7 seed-to-sale tracking system which tracks the marijuana from seed or
8 immature plant to wholesale purchase.

9 Sec. 156. (1) A products manufacturer may manufacture marijuana
10 products for sale and distribution to marijuana stores and other products
11 manufacturers, but not to consumers, in accordance with the Marijuana
12 Control Act.

13 (2) A products manufacturer may cultivate its own marijuana if it
14 obtains a cultivator license, or it may purchase marijuana from a
15 separate licensed cultivator.

16 (3) A products manufacturer shall track all of its marijuana and
17 marijuana products from the point of acquisition until sold or
18 transferred to another licensee in accordance with the Marijuana Control
19 Act.

20 Sec. 157. (1) A testing facility may analyze, test, and certify
21 marijuana, including for potency and the presence of contaminants, in
22 accordance with the Marijuana Control Act.

23 (2) When a testing facility has completed testing a sample of
24 marijuana, the sample shall be disposed of in accordance with the rules
25 and regulations of the commission.

26 (3) A testing facility shall track all marijuana from its receipt
27 until its disposal.

28 Sec. 158. (1) A transporter may, in accordance with the Marijuana
29 Control Act:

30 (a) Transport marijuana from the licensed premises of one licensee
31 to the licensed premises of another licensee; and

1 (b) Temporarily store marijuana to be transported at its own
2 licensed premises. The commission may approve multiple licensed premises
3 in different locations for a single licensee, subject to sections 92 to
4 97 of this act.

5 (2) A transporter shall not sell marijuana.

6 (3) A transporter shall track all marijuana from receipt to
7 delivery.

8 (4) A marijuana store, cultivator, or products manufacturer may
9 transport and distribute its own marijuana without obtaining a transport
10 license.

11 Sec. 159. (1) Except as provided in subsections (2) and (3) of this
12 section, the following employees or agents of a licensee shall possess an
13 employee authorization:

14 (a) Any natural person who possesses, cultivates, manufactures,
15 tests, dispenses, sells, transports, or delivers marijuana as permitted
16 by privileges of a license;

17 (b) Any natural person who has access to the inventory tracking
18 system or point-of-sale system of a licensee; and

19 (c) Any natural person with unescorted access to a limited access
20 area.

21 (2) The person or persons who signed a license application as an
22 applicant or applicants are not required to obtain a separate employment
23 authorization from the commission when working in or managing the
24 licensed premises that was the subject of the approved license
25 application.

26 (3) This section does not apply to independent contractors or other
27 persons providing services that are unrelated to the cultivation,
28 processing, distribution, or sale of marijuana, such as plumbers,
29 carpenters, electricians, painters, other trades people, accountants, and
30 attorneys. The commission shall by rule and regulation set forth other
31 similar positions and types of work that do not require employment

1 authorization and rules and procedures for escorting such non-employees
2 into limited access areas.

3 (4) For purposes of this section, escorted and limited access area
4 have the same meaning as in section 121 of this act.

5 Sec. 160. (1) An application for issuance of an employment
6 authorization shall be in the form and manner required by the commission,
7 shall be accompanied by a nonrefundable fee of one hundred dollars, and
8 shall be verified by oath or affirmation of the applicant.

9 (2) An application for issuance of an employment authorization shall
10 include:

11 (a) The name and address of the applicant and how long the applicant
12 has resided in Nebraska;

13 (b) A statement that the applicant meets the requirements of section
14 161 of this act; and

15 (c) Such other information as the commission may from time to time
16 direct.

17 (3)(a) An applicant for initial issuance shall also submit two
18 legible sets of fingerprints to be furnished to the Federal Bureau of
19 Investigation through the Nebraska State Patrol for a national criminal
20 history record check and the fee for such record check payable to the
21 patrol. The applicant shall authorize release of the national criminal
22 history record check to the commission.

23 (b) The commission may require an applicant for renewal to comply
24 with subdivision (3)(a) of this section when there is a demonstrated
25 investigative need.

26 (4) If any false statement is made in any part of an application,
27 the applicant shall be deemed guilty of perjury, and upon conviction
28 thereof the authorization shall be revoked and the applicant subjected to
29 the penalties set forth in section 28-915.

30 Sec. 161. (1) In order to receive an employment authorization, a
31 person shall:

- 1 (a) Be a Nebraska resident and legally able to work in Nebraska;
2 (b) Be at least twenty-one years of age;
3 (c) Not have been convicted of or pleaded guilty or nolo contendere
4 to a disqualifying offense;
5 (d) Not be a participating physician or employed by the commission
6 or the Department of Revenue;
7 (e) Not be a peace officer, employee of a jail or the Department of
8 Correctional Services, or an official or employee of a local governing
9 body; and
10 (f) Not be a related person to or living in the same dwelling as a
11 person employed by the commission.

12 (2) For purposes of this section, related person means a spouse,
13 child, stepchild, grandchild, parent, stepparent, grandparent, sibling,
14 stepsibling, half-sibling, aunt, uncle, niece, or nephew, or spouse of
15 any thereof, of the individual or of the individual's spouse.

16 Sec. 162. The commission shall approve an application for an
17 employment authorization if the applicant meets the requirements of
18 section 161 of this act and submits an application and fee in conformance
19 with section 160 of this act. An employment authorization is valid for
20 two years from the date of issuance.

21 Sec. 163. A person may apply for the renewal of an employment
22 authorization by submitting an application to the commission not earlier
23 than thirty days prior to the date of expiration. The application shall
24 be in a form and submitted in a manner as prescribed by the commission
25 and accompanied by a nonrefundable fee of seventy-five dollars.

26 Sec. 164. (1) The employment authorization of any person who
27 violates the Marijuana Control Act, any rule or regulation adopted or
28 promulgated thereunder, or an ordinance regulating marijuana may be
29 suspended or revoked or subject to such other sanction as the commission
30 deems appropriate under section 110 of this act, except that any civil
31 penalty issued shall not exceed one thousand dollars.

1 (2) A denial of issuance or renewal, revocation, or imposition of a
2 sanction against an employment authorization may be appealed in
3 accordance with the Administrative Procedure Act.

4 Sec. 165. (1) For purposes of this section:

5 (a) Approved training program means a training program offered by a
6 provider and approved by the commission as provided in this section;

7 (b) Licensee or store means a marijuana store;

8 (c) Mandatory participants means the employees, managers, owners,
9 and other persons associated with a licensee that are required by the
10 commission to take part in an approved training program;

11 (d) Provider means a person providing training to stores and their
12 managers and employees;

13 (2) On or before January 1, 2023, the commission shall develop
14 standards for approved training programs. At a minimum, a program shall
15 be taught in a classroom setting in a minimum of a two-hour period and
16 shall include:

17 (a) Program standards that specify, at a minimum, who must attend,
18 the time frame for new staff to attend, recertification requirements,
19 recordkeeping, testing and assessment protocols, and effectiveness
20 evaluations; and

21 (b) A core curriculum of pertinent statutory and regulatory
22 provisions which includes, but need not be limited to, information
23 regarding:

24 (i) Licensure, employment authorization, age requirements, registry
25 verification documents, maintenance of records, privacy issues, and
26 unlawful acts;

27 (ii) Administrative and criminal liability and license and court
28 sanctions;

29 (iii) Statutory and regulatory requirements for employees and
30 licensees;

31 (iv) Acceptable forms of identification documents;

1 (v) Local ordinances; and

2 (vi) Information on serving size, THC and cannabinoid potency, and
3 impairment.

4 (3) In developing standards under subsection (2) of this section,
5 the commission may consider input nationally from other state agencies,
6 local governing bodies, and the marijuana industry.

7 (4)(a) A provider may apply to the commission for approval of a
8 responsible vendor training program by submitting an application in a
9 form and manner prescribed by the commission together with an eight-
10 hundred-dollar fee.

11 (b) If the commission approves a provider's training program, the
12 commission shall issue a certificate to the provider. The certificate
13 shall be valid for two years and may be renewed by filing a form
14 prescribed by the commission and payment of a one-hundred-dollar fee.

15 (c) A provider of an approved training program shall maintain its
16 training records at its principal place of business for at least three
17 years. The provider shall make the records available for inspection by
18 the commission during normal business hours.

19 (5) The commission may revoke a provider's certification for failure
20 to meet the standards set forth in this section.

21 (6)(a) A licensee may receive a responsible vendor designation from
22 a program provider after successfully completing an approved training
23 program. A responsible vendor designation is valid for two years from the
24 date of issuance.

25 (b) Successful completion of an approved training program is
26 achieved when the program has been attended by and, as determined by the
27 program provider, satisfactorily completed by all mandatory participants.

28 (c) In order to maintain the responsible vendor designation, the
29 licensee must have each new employee or person who is a mandatory
30 participant attend and satisfactorily complete an approved training
31 program within ninety days of hire. A licensee shall maintain

1 documentation of completion of the program by all mandatory participants.

2 (7) A licensee who receives a responsible vendor designation shall
3 maintain information on all mandatory participants who have been trained
4 in an approved training program. The information includes the date,
5 place, time, and duration of training and a list of persons attending
6 each specific training program.

7 (8) If the commission or a local governing body initiates an
8 administrative action against a licensee who holds a responsible vendor
9 designation, the commission or local governing body shall consider the
10 designation as a mitigating factor when imposing sanctions or penalties
11 on the licensee.

12 Sec. 166. (1) The commission, in consultation with the Department
13 of Agriculture, shall develop a permitting system to allow pesticide
14 manufacturers to obtain limited quantities of marijuana in order to
15 conduct research to establish safe and effective protocols for the use of
16 pesticides on marijuana. To apply, a pesticide manufacturer shall submit
17 a fee of five hundred dollars to the commission with an application, on a
18 form and in a manner prescribed by the commission. If the commission
19 grants the application it shall enter into an agreement with the
20 pesticide manufacturer, setting forth the terms and conditions under
21 which the pesticide manufacturer may obtain, use, and dispose of
22 marijuana. The permit shall be renewable annually for a fee of one
23 hundred dollars, on such terms and conditions as the commission may
24 prescribe.

25 (2) The commission may revoke a permit granted under this section
26 for any violation of the Marijuana Control Act or the rules and
27 regulations adopted and promulgated thereunder. A revocation may be
28 appealed to the commission and such appeal shall be subject to the
29 Administrative Procedure Act.

30 (3) A pesticide manufacturer acting under a permit issued pursuant
31 to this section shall:

1 (a) Conduct such research within Nebraska;

2 (b) Only possess at any time the quantity of marijuana authorized by
3 the commission;

4 (c) Only use such marijuana for the research purposes authorized
5 pursuant to this section and its agreement with the commission;

6 (d) Only permit persons twenty-one years of age or older to possess
7 or handle marijuana;

8 (e) Dispose of marijuana in accordance with the commission's rules
9 and regulations; and

10 (f) Not apply pesticides for research purposes on any licensed
11 premises.

12 Sec. 167. (1) The Marijuana Control Fund is created. The fund shall
13 consist of all fees, gifts, grants, and other money, excluding fines and
14 civil penalties, received or collected by the commission under the
15 Marijuana Control Act.

16 (2) The commission shall use the fund for the administration and
17 enforcement of the Marijuana Control Act. The fund may be used to cover
18 any such administrative or enforcement costs, including, but not limited
19 to, salary and benefits, expenses incurred by the commission in producing
20 or distributing the forms, materials, and other documentation required by
21 the act, costs of equipment needed to enforce the act, and defraying
22 costs associated with electronic regulatory transactions, industry
23 education events, and enforcement training.

24 (3) Transfers may be made from the Marijuana Control Fund to the
25 General Fund at the direction of the Legislature.

26 (4) Any money in the Marijuana Control Fund available for investment
27 shall be invested by the state investment officer pursuant to the
28 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
29 Act.

30 Sec. 168. For purposes of sections 168 to 173 of this act:

31 (1) Affiliated means licensees that are owned or controlled by the

1 same or related interests;

2 (2) Average market rate means the average price, as determined by
3 the commission on a quarterly basis, of all unprocessed marijuana that is
4 sold or transferred from cultivators in the state to products
5 manufacturers or marijuana stores, less taxes paid on the sales or
6 transfers. An average market rate may be based on the purchaser or
7 transferee of unprocessed marijuana or on the nature of the unprocessed
8 marijuana that is sold or transferred. The average market rate shall
9 include one or more rates that cover unprocessed marijuana that is
10 allocated to extractions, and the initial rates for these product types
11 must be lower than the rate for unprocessed marijuana that is allocated
12 for direct sale to consumers.

13 (3) Consumer means an individual twenty-one years of age or older
14 who purchases marijuana for personal use by individuals twenty-one years
15 of age or older but not for resale to others;

16 (4) Contract price means the invoice price charged by a cultivator
17 to each licensed purchaser for each sale or transfer of unprocessed
18 marijuana, exclusive of any tax that is included in the written invoice
19 price, and exclusive of any discount or other reduction. In the case of
20 multiple invoices reflecting multiple prices for the same transaction,
21 contract price is the highest such price;

22 (5) Excise tax means the tax imposed by section 169 of this act;

23 (6) Related interests includes individuals who are related by blood
24 or marriage or entities that are directly or indirectly controlled by an
25 entity or individual or related individuals;

26 (7) Sale means any exchange or barter, in any manner or by any means
27 whatsoever, for consideration; and

28 (8) Unprocessed marijuana means marijuana at the time of the first
29 transfer or sale from a marijuana cultivator to a products manufacturer,
30 a marijuana store, or an unaffiliated marijuana cultivator.

31 Sec. 169. (1) There is levied and shall be collected an excise tax

1 on the first sale or transfer of unprocessed marijuana by a marijuana
2 cultivator to a products manufacturer, a marijuana store, or an
3 unaffiliated cultivator. The tax shall be at a rate of fifteen percent
4 of:

5 (a) The average market rate of the unprocessed marijuana if the
6 transaction is between affiliated licensees; or

7 (b) The contract price for unprocessed marijuana if the transaction
8 is between unaffiliated licensees.

9 (2) The excise tax imposed by this section shall be in addition to
10 all other occupation or privilege taxes imposed by this state or by any
11 political subdivision of the state, subject to section 174 of this act.

12 Sec. 170. (1) Every marijuana cultivator shall keep at each
13 licensed premises complete and accurate electronic records for that
14 licensed premises, including itemized invoices of all marijuana
15 cultivated, held, shipped, or otherwise transported or sold to any other
16 licensee.

17 (2) The records required by subsection (1) of this section shall
18 include the names and addresses of licensees to which unprocessed
19 marijuana is sold or transferred, the inventory of all unprocessed
20 marijuana on hand, and other pertinent papers and documents relating to
21 the sale or transfer of unprocessed marijuana.

22 (3) A marijuana cultivator shall keep itemized invoices of all
23 unprocessed marijuana transferred to marijuana stores owned or controlled
24 by the owners of the marijuana cultivator.

25 (4) Every marijuana store shall keep at its place of business
26 complete and accurate records to show that all marijuana received by the
27 marijuana store was purchased from a marijuana cultivator or a products
28 manufacturer. The marijuana store shall provide a copy of such records to
29 the commission if so requested. The commission may establish the
30 acceptable form of such records.

31 Sec. 171. (1) Every marijuana cultivator shall file a return with

1 the commission by the twentieth day of the month following the month
2 reported and with the report shall remit the amount of excise tax due.

3 (2) The return, which shall be upon forms prescribed and furnished
4 by the commission, shall contain, among other things, the total amount of
5 unprocessed marijuana sold or transferred during the preceding month and
6 the amount of tax due thereon.

7 (3) The commission may require marijuana cultivators to file tax
8 returns electronically and to remit payments due by electronic funds
9 transfers.

10 Sec. 172. (1) A products manufacturer or marijuana store shall not
11 accept any marijuana from a cultivator unless the manufacturer or store
12 is provided with evidence that the excise tax was paid.

13 (2) A cultivator shall not accept any marijuana from an unaffiliated
14 cultivator unless provided with evidence that the excise tax was paid.

15 (3) A cultivator shall, prior to delivery of any marijuana to a
16 products manufacturer, a marijuana store, or an unaffiliated cultivator,
17 provide evidence that any applicable excise tax on the marijuana was
18 paid.

19 Sec. 173. (1) The commission shall collect the excise tax and shall
20 account for and remit to the State Treasurer at least once each month all
21 money collected pursuant to such tax for credit to the Marijuana Control
22 Fund.

23 (2) After deducting amounts necessary for the commission to
24 administer and enforce the Marijuana Control Act, the State Treasurer
25 shall credit the remaining revenues collected from the excise tax as
26 follows:

27 (a) Ten percent of the remainder shall be distributed to the
28 Department of Health and Human Services for drug education and treatment
29 programs;

30 (b) Ten percent of the remainder shall be transferred to the
31 Affordable Housing Trust Fund; and

1 (c) Eighty percent of the remainder shall be transferred to the
2 Property Tax Credit Cash Fund.

3 Sec. 174. No city, village, county, or other political subdivision
4 shall impose an occupation tax on a licensee which annually exceeds two
5 times the amount of the initial license fee required to be paid to the
6 commission by such licensee under section 92 of this act.

7 Sec. 175. Sections 175 to 186 of this act shall be known and may be
8 cited as the Marijuana Conviction Clean Slate Act.

9 Sec. 176. For purposes of the Marijuana Conviction Clean Slate Act,
10 the definitions found in the Marijuana Control Act, the Security,
11 Privacy, and Dissemination of Criminal History Information Act and
12 sections 177 and 178 of this act apply.

13 Sec. 177. The terms conviction and adjudication include a
14 conviction or adjudication following trial or entry of a guilty plea or
15 plea of nolo contendere and include a forfeiture of bail, bond, or other
16 security deposited to secure appearance by a person charged with an
17 offense.

18 Sec. 178. Qualified offense means:

19 (1) A violation of section 28-416 as such section existed prior to
20 the effective date of this act involving marijuana, except an offense
21 involving distribution to a person under eighteen years of age;

22 (2) A violation of section 28-441 or 28-442 as such sections existed
23 prior to the effective date of this act involving marijuana;

24 (3) Violation of an ordinance substantially similar to an offense
25 described in subsection (1) or (2) of this section; or

26 (4) Attempt, solicitation, aiding or abetting, being an accessory,
27 or conspiracy to commit an offense listed in subdivision (1), (2), or (3)
28 of this section.

29 Sec. 179. (1) Beginning June 1, 2022, a person shall automatically
30 be eligible for clean slate relief under sections 182 and 183 of this act
31 for a qualified offense if:

1 (a) The qualified offense was committed on or after January 1, 2010;

2 (b) As of June 1, 2022, such person has completed the sentence for
3 such offense; and

4 (c) As of June 1, 2022, such person has paid all court-ordered
5 financial obligations related to such offense.

6 (2) Eligibility for relief under this section shall be determined
7 internally and administratively by the State Court Administrator and does
8 not require any involvement by the person in interest.

9 (3) On or before June 1, 2022, the State Court Administrator shall:

10 (a) Identify all persons eligible for relief under subsection (1) of
11 this section; and

12 (b) Notify the court of conviction or adjudication of such
13 determination.

14 (4) Each court of conviction or adjudication shall, on or before
15 August 1, 2022, issue orders for clean slate relief under sections 182
16 and 183 of this act for each person for whom the court received a
17 notification under subsection (3) of this section.

18 (5) The State Court Administrator is not required to proceed under
19 subsection (3) of this section if the State Court Administrator
20 determines that the person in interest is deceased.

21 Sec. 180. (1) Beginning July 1, 2022, a person shall automatically
22 be eligible for clean slate relief under sections 182 and 183 of this act
23 for a qualified offense if:

24 (a) The qualified offense was committed on or after January 1, 2010;

25 (b) Such person has completed the sentence for such offense; and

26 (c) Such person has paid all court-ordered financial obligations
27 related to such offense.

28 (2) Eligibility for relief under this section shall be determined
29 internally and administratively by the State Court Administrator and does
30 not require any involvement by the person in interest.

31 (3) Beginning July 1, 2022, the State Court Administrator shall, on

1 a monthly basis:

2 (a) Identify all persons eligible for relief under subsection (1) of
3 this section; and

4 (b) Notify the court of conviction or adjudication of such
5 determination.

6 (4) Each court of conviction or adjudication shall, on a monthly
7 basis, issue orders for clean slate relief under sections 182 and 183 of
8 this act for each person for whom the court received a notification under
9 subsection (3) of this section.

10 (5) The State Court Administrator is not required to proceed under
11 subsection (3) of this section if the State Court Administrator
12 determines that the person in interest is deceased.

13 (6) This section terminates on January 1, 2027.

14 Sec. 181. (1) A person convicted of, or adjudicated for, a
15 qualified offense may petition the court for clean slate relief under
16 sections 182 and 183 of this act if such person has completed the
17 sentence for such offense and paid all court-ordered financial
18 obligations related to such offense.

19 (2) This section applies to a qualified offense regardless of when
20 it was committed.

21 (3) The petition shall be filed in the court of conviction or
22 adjudication. There shall be no filing or docketing fee charged by the
23 court for the filing of a petition except for the fee authorized by this
24 subsection. The court may charge a filing fee in an amount set by the
25 State Court Administrator. The fee shall be set at an amount to recoup
26 the costs associated with administering the Clean Slate Act, but shall
27 not exceed forty dollars.

28 (4) The court shall provide notice of the filing of the petition to
29 the appropriate county attorney or city attorney within ten days. Within
30 thirty days after receipt of notice, the county attorney or city attorney
31 may file objections to the petition. If no objection is timely filed, the

1 court shall grant the petition without further hearing if the
2 requirements of this section have been met.

3 (5) If the court determines that the person in interest meets the
4 eligibility requirements of this section, the court shall grant the
5 petition.

6 (6) Upon granting a petition under this section, the court shall
7 issue an order for clean slate relief under sections 182 and 183 of this
8 act.

9 (7) An order granting or denying a petition under this section is a
10 final, appealable order for purposes of section 25-1902.

11 Sec. 182. (1) An order for clean slate relief shall:

12 (a) Nullify the conviction;

13 (b) Remove all civil disabilities and disqualifications imposed as a
14 result of the conviction; and

15 (c) Notify the person in interest that such person should consult
16 with an attorney regarding the effect of the order, if any, on such
17 person's ability to possess a firearm under state or federal law.

18 (2) An order for clean slate relief shall not:

19 (a) Require the reinstatement of any office, employment, or position
20 which was previously held and lost or forfeited as a result of the
21 conviction; or

22 (b) Affect eligibility for, or obligations relating to, a commercial
23 driver's license.

24 Sec. 183. (1) Following entry of a court order granting a person
25 clean slate relief under section 182 of this act, a criminal justice
26 agency shall respond to a public inquiry in the same manner as if there
27 were no criminal history record information and criminal history record
28 information shall not be disseminated to any person other than a criminal
29 justice agency, except as provided in subsections (4) and (5) of this
30 section.

31 (2) In issuing an order for clean slate relief, the court shall:

1 (a) Order that all records, including any information or other data
2 concerning any proceedings relating to the case, including the arrest,
3 taking into custody, petition, complaint, indictment, information, trial,
4 hearing, adjudication, correctional supervision, dismissal, or other
5 disposition or sentence, are not part of the public record and shall not
6 be disseminated to persons other than criminal justice agencies, except
7 as provided in subsections (4) and (5) of this section;

8 (b) Send notice of the order to (i) the Nebraska Commission on Law
9 Enforcement and Criminal Justice, (ii) the Nebraska State Patrol, and
10 (iii) law enforcement agencies, county attorneys, and city attorneys
11 referenced in the court record;

12 (c) If the order relates to an adjudication, send notice of the
13 order to (i) the Department of Motor Vehicles, if the adjudication
14 included impoundment or prohibition to obtain a license or permit
15 pursuant to section 43-287, and (ii) the Department of Health and Human
16 Services, if the person in interest was a ward of the state at the time
17 the proceeding was initiated or if the department was a party in the
18 proceeding;

19 (d) Order all parties notified under subdivisions (2)(b) and (c) of
20 this section to seal all records pertaining to the case; and

21 (e) If the case was transferred from one court to another, send
22 notice of the order to seal the record to the original, transferring
23 court.

24 (3) In any application for employment, bonding, license, education,
25 or other right or privilege, any appearance as a witness, or any other
26 public inquiry, a person shall not be questioned with respect to any
27 offense for which the record is sealed. If an inquiry is made in
28 violation of this subsection, the person may respond as if the offense
29 never occurred.

30 (4) A criminal justice agency may, with respect to criminal history
31 record information sealed under this section, disclose, disseminate,

1 respond to inquiries regarding, or allow inspection of such criminal
2 history record information:

3 (a) If the person in interest has made a notarized request for the
4 release of information, to the extent authorized in such release;

5 (b) If the person in interest is currently the subject of
6 prosecution or correctional control as the result of a separate arrest;

7 (c) If the person in interest is currently an announced candidate
8 for or holder of public office;

9 (d) If the criminal history record information is kept unidentified,
10 and the record is used for purposes of surveying or summarizing
11 individual or collective law enforcement agency activity or practices, or
12 the dissemination is requested consisting only of release of criminal
13 history record information showing (i) dates of arrests, (ii) reasons for
14 arrests, and (iii) the nature of the dispositions, including, but not
15 limited to, reasons for not prosecuting the case or cases;

16 (e) To individuals and agencies for the express purpose of research,
17 evaluative, or statistical activities pursuant to an agreement with a
18 criminal justice agency that specifically authorizes access to the
19 information, limits the use of the information to research, evaluative,
20 or statistical activities, and ensures the confidentiality and security
21 of the information; and

22 (f) In response to an inquiry for employment, security, or other
23 purposes to the extent disclosure of such criminal history record
24 information is required by:

25 (i) Federal law, including rules and regulations and rules and
26 regulations promulgated by a self-regulatory organization created under
27 federal law; or

28 (ii) State law, including rules or regulations, relating to
29 operation of a motor vehicle or caring for or interacting with children,
30 including, but not limited to, determining whether an application filed
31 or a license issued under sections 71-1901 to 71-1906.01, the Child Care

1 Licensing Act, or the Children's Residential Facilities and Placing
2 Licensure Act or a certificate issued under sections 79-806 to 79-815
3 should be denied, suspended, or revoked.

4 (5) In addition to disclosures authorized under subsection (4) of
5 this section, inspection of criminal history record information relating
6 to an adjudication that has been sealed under this section may be made by
7 the persons and for the purposes authorized in section 43-2,108.05.

8 Sec. 184. An appeal by a person in interest who is denied clean
9 slate relief shall be expedited. If, on appeal, it is determined that the
10 person in interest was wrongfully denied clean slate relief, the state
11 shall pay such person's attorney's fees for the appeal.

12 Sec. 185. (1) Upon petition of the county attorney or city
13 attorney, and with notice to the person in interest and opportunity to be
14 heard, the court shall vacate an order for clean slate relief issued
15 pursuant to section 179 or 180 of this act if the court determines that
16 the order was erroneously entered and not in accordance with the
17 Marijuana Conviction Clean Slate Act.

18 (2) Upon entry of an order under subsection (1) of this section, the
19 court shall send notice of such order as provided in subdivision (2)(b)
20 of section 183 of this act.

21 Sec. 186. The State Court Administrator may adopt and promulgate
22 rules and regulations as necessary to carry out the Marijuana Conviction
23 Clean Slate Act.

24 Sec. 187. Section 28-401, Revised Statutes Cumulative Supplement,
25 2020, is amended to read:

26 28-401 As used in the Uniform Controlled Substances Act, unless the
27 context otherwise requires:

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

31 (2) Agent means an authorized person who acts on behalf of or at the

1 direction of another person but does not include a common or contract
2 carrier, public warehouse keeper, or employee of a carrier or warehouse
3 keeper;

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

6 (4) Controlled substance means a drug, biological, substance, or
7 immediate precursor in Schedules I through V of section 28-405.
8 Controlled substance does not include distilled spirits, wine, malt
9 beverages, tobacco, marijuana, hemp, or any nonnarcotic substance if such
10 substance may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
11 301 et seq., as such act existed on January 1, 2014, and the law of this
12 state, be lawfully sold over the counter without a prescription;

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

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

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

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

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

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

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

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

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

14 ~~(14) (a) Marijuana has the same meaning as in section 17 of this~~
15 ~~act; means all parts of the plant of the genus cannabis, whether growing~~
16 ~~or not, the seeds thereof, and every compound, manufacture, salt,~~
17 ~~derivative, mixture, or preparation of such plant or its seeds.~~

18 ~~(b) Marijuana does not include the mature stalks of such plant,~~
19 ~~hashish, tetrahydrocannabinols extracted or isolated from the plant,~~
20 ~~fiber produced from such stalks, oil or cake made from the seeds of such~~
21 ~~plant, any other compound, manufacture, salt, derivative, mixture, or~~
22 ~~preparation of such mature stalks, the sterilized seed of such plant~~
23 ~~which is incapable of germination, or cannabidiol contained in a drug~~
24 ~~product approved by the federal Food and Drug Administration or obtained~~
25 ~~pursuant to sections 28-463 to 28-468.~~

26 ~~(c) Marijuana does not include hemp.~~

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

31 ~~(e) When industrial hemp as defined in section 2-5701 is in the~~

1 ~~possession of a person as authorized under section 2-5701, it is not~~
2 ~~considered marijuana for purposes of the Uniform Controlled Substances~~
3 ~~Act;~~

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

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

1 coca leaves, which extracts do not contain cocaine or ecgonine, or
2 isoquinoline alkaloids of opium;

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

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

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

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

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

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

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

31 (24) State means the State of Nebraska;

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

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

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

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

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

22 (28) ~~(29)~~ Exceptionally hazardous drug means (a) a narcotic drug,
23 (b) thiophene analog of phencyclidine, (c) phencyclidine, (d)
24 amobarbital, (e) secobarbital, (f) pentobarbital, (g) amphetamine, or (h)
25 methamphetamine;

26 (29) ~~(30)~~ Imitation controlled substance means a substance which is
27 not a controlled substance or controlled substance analogue but which, by
28 way of express or implied representations and consideration of other
29 relevant factors including those specified in section 28-445, would lead
30 a reasonable person to believe the substance is a controlled substance or
31 controlled substance analogue. A placebo or registered investigational

1 drug manufactured, distributed, possessed, or delivered in the ordinary
2 course of practice or research by a health care professional shall not be
3 deemed to be an imitation controlled substance;

4 (30)(a) ~~(31)(a)~~ Controlled substance analogue means a substance (i)
5 the chemical structure of which is substantially similar to the chemical
6 structure of a Schedule I or Schedule II controlled substance as provided
7 in section 28-405 or (ii) which has a stimulant, depressant, analgesic,
8 or hallucinogenic effect on the central nervous system that is
9 substantially similar to or greater than the stimulant, depressant,
10 analgesic, or hallucinogenic effect on the central nervous system of a
11 Schedule I or Schedule II controlled substance as provided in section
12 28-405. A controlled substance analogue shall, to the extent intended for
13 human consumption, be treated as a controlled substance under Schedule I
14 of section 28-405 for purposes of the Uniform Controlled Substances Act;
15 and

16 (b) Controlled substance analogue does not include (i) a controlled
17 substance, (ii) any substance generally recognized as safe and effective
18 within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
19 301 et seq., as such act existed on January 1, 2014, (iii) any substance
20 for which there is an approved new drug application, or (iv) with respect
21 to a particular person, any substance if an exemption is in effect for
22 investigational use for that person, under section 505 of the Federal
23 Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on
24 January 1, 2014, to the extent conduct with respect to such substance is
25 pursuant to such exemption;

26 (31) ~~(32)~~ Anabolic steroid means any drug or hormonal substance,
27 chemically and pharmacologically related to testosterone (other than
28 estrogens, progestins, and corticosteroids), that promotes muscle growth
29 and includes any controlled substance in Schedule III(d) of section
30 28-405. Anabolic steroid does not include any anabolic steroid which is
31 expressly intended for administration through implants to cattle or other

1 nonhuman species and has been approved by the Secretary of Health and
2 Human Services for such administration, but if any person prescribes,
3 dispenses, or distributes such a steroid for human use, such person shall
4 be considered to have prescribed, dispensed, or distributed an anabolic
5 steroid within the meaning of this subdivision;

6 ~~(32)~~ ~~(33)~~ Chart order means an order for a controlled substance
7 issued by a practitioner for a patient who is in the hospital where the
8 chart is stored or for a patient receiving detoxification treatment or
9 maintenance treatment pursuant to section 28-412. Chart order does not
10 include a prescription;

11 ~~(33)~~ ~~(34)~~ Medical order means a prescription, a chart order, or an
12 order for pharmaceutical care issued by a practitioner;

13 ~~(34)~~ ~~(35)~~ Prescription means an order for a controlled substance
14 issued by a practitioner. Prescription does not include a chart order;

15 ~~(35)~~ ~~(36)~~ Registrant means any person who has a controlled
16 substances registration issued by the state or the Drug Enforcement
17 Administration of the United States Department of Justice;

18 ~~(36)~~ ~~(37)~~ Reverse distributor means a person whose primary function
19 is to act as an agent for a pharmacy, wholesaler, manufacturer, or other
20 entity by receiving, inventorying, and managing the disposition of
21 outdated, expired, or otherwise nonsaleable controlled substances;

22 ~~(37)~~ ~~(38)~~ Signature means the name, word, or mark of a person
23 written in his or her own hand with the intent to authenticate a writing
24 or other form of communication or a digital signature which complies with
25 section 86-611 or an electronic signature;

26 ~~(38)~~ ~~(39)~~ Facsimile means a copy generated by a system that encodes
27 a document or photograph into electrical signals, transmits those signals
28 over telecommunications lines, and reconstructs the signals to create an
29 exact duplicate of the original document at the receiving end;

30 ~~(39)~~ ~~(40)~~ Electronic signature has the definition found in section
31 86-621;

1 ~~(40)~~ ~~(41)~~ Electronic transmission means transmission of information
2 in electronic form. Electronic transmission includes computer-to-computer
3 transmission or computer-to-facsimile transmission;

4 ~~(41)~~ ~~(42)~~ Long-term care facility means an intermediate care
5 facility, an intermediate care facility for persons with developmental
6 disabilities, a long-term care hospital, a mental health substance use
7 treatment center, a nursing facility, or a skilled nursing facility, as
8 such terms are defined in the Health Care Facility Licensure Act;

9 ~~(42)~~ ~~(43)~~ Compounding has the same meaning as in section 38-2811;

10 ~~(43)~~ ~~(44)~~ Cannabinoid receptor agonist shall mean any chemical
11 compound or substance other than marijuana that, according to scientific
12 or medical research, study, testing, or analysis, demonstrates the
13 presence of binding activity at one or more of the CB1 or CB2 cell
14 membrane receptors located within the human body; and

15 ~~(44)~~ ~~(45)~~ Lookalike substance means a product or substance, not
16 specifically designated as a controlled substance in section 28-405, that
17 is either portrayed in such a manner by a person to lead another person
18 to reasonably believe that it produces effects on the human body that
19 replicate, mimic, or are intended to simulate the effects produced by a
20 controlled substance or that possesses one or more of the following
21 indicia or characteristics:

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

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

30 (c) The product or substance is marketed or advertised for a
31 particular use or purpose and the cost of the product or substance is

1 disproportionately higher than other products or substances marketed or
2 advertised for the same or similar use or purpose;

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

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

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

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

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

26 Sec. 188. Section 28-405, Revised Statutes Cumulative Supplement,
27 2020, is amended to read:

28 28-405 The following are the schedules of controlled substances
29 referred to in the Uniform Controlled Substances Act, unless specifically
30 contained on the list of exempted products of the Drug Enforcement
31 Administration of the United States Department of Justice as the list

1 existed on November 9, 2017:

2 Schedule I

3 (a) Any of the following opiates, including their isomers, esters,
4 ethers, salts, and salts of isomers, esters, and ethers, unless
5 specifically excepted, whenever the existence of such isomers, esters,
6 ethers, and salts is possible within the specific chemical designation:

7 (1) Acetylmethadol;

8 (2) Allylprodine;

9 (3) Alphacetylmethadol, except levo-alphacetylmethadol which is also
10 known as levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM;

11 (4) Alphameprodine;

12 (5) Alphamethadol;

13 (6) Benzethidine;

14 (7) Betacetylmethadol;

15 (8) Betameprodine;

16 (9) Betamethadol;

17 (10) Betaprodine;

18 (11) Clonitazene;

19 (12) Dextromoramide;

20 (13) Difenoquin;

21 (14) Diampromide;

22 (15) Diethylthiambutene;

23 (16) Dimenoxadol;

24 (17) Dimepheptanol;

25 (18) Dimethylthiambutene;

26 (19) Dioxaphetyl butyrate;

27 (20) Dipipanone;

28 (21) Ethylmethylthiambutene;

29 (22) Etonitazene;

30 (23) Etoxadine;

31 (24) Furethidine;

- 1 (25) Hydroxypethidine;
- 2 (26) Ketobemidone;
- 3 (27) Levomoramide;
- 4 (28) Levophenacymorphan;
- 5 (29) Morpheridine;
- 6 (30) Noracymethadol;
- 7 (31) Norlevorphanol;
- 8 (32) Normethadone;
- 9 (33) Norpipanone;
- 10 (34) Phenadoxone;
- 11 (35) Phenampromide;
- 12 (36) Phenomorphan;
- 13 (37) Phenoperidine;
- 14 (38) Piritramide;
- 15 (39) Proheptazine;
- 16 (40) Properidine;
- 17 (41) Propiram;
- 18 (42) Racemoramide;
- 19 (43) Trimeperidine;
- 20 (44) Alpha-methylfentanyl, N-(1-(alpha-methyl-beta-phenyl)ethyl-4-
- 21 piperidyl) propionanilide, 1-(1-methyl-2-phenylethyl)-4-(N-propanilido)
- 22 piperidine;
- 23 (45) Tilidine;
- 24 (46) 3-Methylfentanyl, N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-
- 25 phenylpropanamide, its optical and geometric isomers, salts, and salts of
- 26 isomers;
- 27 (47) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its optical
- 28 isomers, salts, and salts of isomers;
- 29 (48) PEPAP, 1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine, its
- 30 optical isomers, salts, and salts of isomers;
- 31 (49) Acetyl-alpha-methylfentanyl, N-(1-(1-methyl-2-phenethyl)-4-

1 piperidiny)-N-phenylacetamide, its optical isomers, salts, and salts of
2 isomers;

3 (50) Alpha-methylthiofentanyl, N-(1-methyl-2-(2-thienyl)ethyl-4-
4 piperidiny)-N-phenylpropanamide, its optical isomers, salts, and salts
5 of isomers;

6 (51) Benzylfentanyl, N-(1-benzyl-4-piperidyl)-N-phenylpropanamide,
7 its optical isomers, salts, and salts of isomers;

8 (52) Beta-hydroxyfentanyl, N-(1-(2-hydroxy-2-phenethyl)-4-
9 piperidiny)-N-phenylpropanamide, its optical isomers, salts, and salts
10 of isomers;

11 (53) Beta-hydroxy-3-methylfentanyl, (other name: N-(1-(2-hydroxy-2-
12 phenethyl)-3-methyl-4-piperidiny)-N-phenylpropanamide), its optical and
13 geometric isomers, salts, and salts of isomers;

14 (54) 3-methylthiofentanyl, N-(3-methyl-1-(2-thienyl)ethyl-4-
15 piperidiny)-N-phenylpropanamide, its optical and geometric isomers,
16 salts, and salts of isomers;

17 (55) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide
18 (thenylfentanyl), its optical isomers, salts, and salts of isomers;

19 (56) Thiofentanyl, N-phenyl-N-(1-(2-thienyl)ethyl-4-piperidiny)-
20 propanamide, its optical isomers, salts, and salts of isomers;

21 (57) Para-fluorofentanyl, N-(4-fluorophenyl)-N-(1-(2-phenethyl)-4-
22 piperidiny)propanamide, its optical isomers, salts, and salts of
23 isomers; and

24 (58) U-47700, 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-
25 methylbenzamide.

26 (b) Any of the following opium derivatives, their salts, isomers,
27 and salts of isomers, unless specifically excepted, whenever the
28 existence of such salts, isomers, and salts of isomers is possible within
29 the specific chemical designation:

30 (1) Acetorphine;

31 (2) Acetyldihydrocodeine;

- 1 (3) Benzylmorphine;
- 2 (4) Codeine methylbromide;
- 3 (5) Codeine-N-Oxide;
- 4 (6) Cyprenorphine;
- 5 (7) Desomorphine;
- 6 (8) Dihydromorphine;
- 7 (9) Drotebanol;
- 8 (10) Etorphine, except hydrochloride salt;
- 9 (11) Heroin;
- 10 (12) Hydromorphanol;
- 11 (13) Methyldesorphine;
- 12 (14) Methyldihydromorphine;
- 13 (15) Morphine methylbromide;
- 14 (16) Morphine methylsulfonate;
- 15 (17) Morphine-N-Oxide;
- 16 (18) Myrophine;
- 17 (19) Nicocodeine;
- 18 (20) Nicomorphine;
- 19 (21) Normorphine;
- 20 (22) Pholcodine; and
- 21 (23) Thebacon.

22 (c) Any material, compound, mixture, or preparation which contains
23 any quantity of the following hallucinogenic substances, their salts,
24 isomers, and salts of isomers, unless specifically excepted, whenever the
25 existence of such salts, isomers, and salts of isomers is possible within
26 the specific chemical designation, and, for purposes of this subdivision
27 only, isomer shall include the optical, position, and geometric isomers:

28 (1) Bufotenine. Trade and other names shall include, but are not
29 limited to: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-
30 dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-
31 dimethyltryptamine; and mappine;

1 (2) 4-bromo-2,5-dimethoxyamphetamine. Trade and other names shall
2 include, but are not limited to: 4-bromo-2,5-dimethoxy-alpha-
3 methylphenethylamine; and 4-bromo-2,5-DMA;

4 (3) 4-methoxyamphetamine. Trade and other names shall include, but
5 are not limited to: 4-methoxy-alpha-methylphenethylamine; and
6 paramethoxyamphetamine, PMA;

7 (4) 4-methyl-2,5-dimethoxyamphetamine. Trade and other names shall
8 include, but are not limited to: 4-methyl-2,5-dimethoxy-alpha-
9 methylphenethylamine; DOM; and STP;

10 (5) Ibogaine. Trade and other names shall include, but are not
11 limited to: 7-Ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-
12 methano-5H-pyrido (1',2':1,2) azepino (5,4-b) indole; and Tabernanthe
13 iboga;

14 (6) Lysergic acid diethylamide;

15 ~~(7) Marijuana;~~

16 ~~(7) (8) Mescaline;~~

17 ~~(8) (9) Peyote.~~ Peyote shall mean all parts of the plant presently
18 classified botanically as Lophophora williamsii Lemaire, whether growing
19 or not, the seeds thereof, any extract from any part of such plant, and
20 every compound, manufacture, salts, derivative, mixture, or preparation
21 of such plant or its seeds or extracts;

22 ~~(9) (10) Psilocybin;~~

23 ~~(10) (11) Psilocyn;~~

24 ~~(11) (12) Tetrahydrocannabinols,~~ including, but not limited to,
25 synthetic equivalents of the substances contained in the plant or in the
26 resinous extractives of cannabis, sp. or synthetic substances,
27 derivatives, and their isomers with similar chemical structure and
28 pharmacological activity such as the following: Delta 1 cis or trans
29 tetrahydrocannabinol and their optical isomers, excluding dronabinol in a
30 drug product approved by the federal Food and Drug Administration; Delta
31 6 cis or trans tetrahydrocannabinol and their optical isomers; and Delta

1 3,4 cis or trans tetrahydrocannabinol and its optical isomers. Since
2 nomenclature of these substances is not internationally standardized,
3 compounds of these structures shall be included regardless of the
4 numerical designation of atomic positions covered;

5 ~~(12)~~ ~~(13)~~ N-ethyl-3-piperidyl benzilate;

6 ~~(13)~~ ~~(14)~~ N-methyl-3-piperidyl benzilate;

7 ~~(14)~~ ~~(15)~~ Thiophene analog of phencyclidine. Trade and other names
8 shall include, but are not limited to: 1-(1-(2-thienyl)-cyclohexyl)-
9 piperidine; 2-thienyl analog of phencyclidine; TCP; and TCP;

10 ~~(16)~~ Hashish or concentrated cannabis;

11 ~~(15)~~ ~~(17)~~ Parahexyl. Trade and other names shall include, but are
12 not limited to: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-
13 dibenzo(b,d)pyran; and Synhexyl;

14 ~~(16)~~ ~~(18)~~ Ethylamine analog of phencyclidine. Trade and other names
15 shall include, but are not limited to: N-ethyl-1-phenylcyclohexylamine;
16 (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine;
17 cyclohexamine; and PCE;

18 ~~(17)~~ ~~(19)~~ Pyrrolidine analog of phencyclidine. Trade and other names
19 shall include, but are not limited to: 1-(1-phenylcyclohexyl)-
20 pyrrolidine; PCPy; and PHP;

21 ~~(18)~~ ~~(20)~~ Alpha-ethyltryptamine. Some trade or other names:
22 etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)
23 indole; alpha-ET; and AET;

24 ~~(19)~~ ~~(21)~~ 2,5-dimethoxy-4-ethylamphet-amine; and DOET;

25 ~~(20)~~ ~~(22)~~ 1-(1-(2-thienyl)cyclohexyl)pyrrolidine; and TCPy;

26 ~~(21)~~ ~~(23)~~ Alpha-methyltryptamine, which is also known as AMT;

27 ~~(22)~~ ~~(24)~~ Salvia divinorum or Salvinorin A. Salvia divinorum or
28 Salvinorin A includes all parts of the plant presently classified
29 botanically as Salvia divinorum, whether growing or not, the seeds
30 thereof, any extract from any part of such plant, and every compound,
31 manufacture, derivative, mixture, or preparation of such plant, its

1 seeds, or its extracts, including salts, isomers, and salts of isomers
2 whenever the existence of such salts, isomers, and salts of isomers is
3 possible within the specific chemical designation;

4 (23) ~~(25)~~ Any material, compound, mixture, or preparation containing
5 any quantity of synthetically produced cannabinoids as listed in
6 subdivisions (A) through (L) of this subdivision, including their salts,
7 isomers, salts of isomers, and nitrogen, oxygen, or sulfur-heterocyclic
8 analogs, unless specifically excepted elsewhere in this section. Since
9 nomenclature of these synthetically produced cannabinoids is not
10 internationally standardized and may continually evolve, these structures
11 or compounds of these structures shall be included under this
12 subdivision, regardless of their specific numerical designation of atomic
13 positions covered, so long as it can be determined through a recognized
14 method of scientific testing or analysis that the substance contains
15 properties that fit within one or more of the following categories:

16 (A) Tetrahydrocannabinols: Meaning synthetic equivalents of
17 tetrahydrocannabinols naturally contained in a plant of the genus
18 cannabis (cannabis plant), ~~as well as synthetic equivalents of the~~
19 ~~substances contained in the plant,~~ or in the resinous extractives of
20 cannabis, sp. and/or synthetic substances, derivatives, and their isomers
21 with similar chemical structure and pharmacological activity such as the
22 following: Delta 1 cis or trans tetrahydrocannabinol, and their optical
23 isomers; Delta 6 cis or trans tetrahydrocannabinol, and their optical
24 isomers; Delta 3,4 cis or trans tetrahydrocannabinol, and its optical
25 isomers;

26 (B) Naphthoylindoles: Any compound containing a 3-(1-
27 naphthoyl)indole structure with substitution at the nitrogen atom of the
28 indole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl,
29 cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group,
30 cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-
31 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or

1 tetrahydropyranylmethyl group, whether or not further substituted in or
2 on any of the listed ring systems to any extent;

3 (C) Naphthylmethyloindoles: Any compound containing a 1 H-indol-3-
4 yl-(1-naphthyl)methane structure with substitution at the nitrogen atom
5 of the indole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl,
6 cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group,
7 cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-
8 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or
9 tetrahydropyranylmethyl group, whether or not further substituted in or
10 on any of the listed ring systems to any extent;

11 (D) Naphthoalpyrroles: Any compound containing a 3-(1-
12 naphthoal)pyrrole structure with substitution at the nitrogen atom of the
13 pyrrole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl,
14 cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group,
15 cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-
16 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or
17 tetrahydropyranylmethyl group, whether or not further substituted in or
18 on any of the listed ring systems to any extent;

19 (E) Naphthylideneindenes: Any compound containing a
20 naphthylideneindene structure with substitution at the 3-position of the
21 indene ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl,
22 cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group,
23 cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-
24 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or
25 tetrahydropyranylmethyl group, whether or not further substituted in or
26 on any of the listed ring systems to any extent;

27 (F) Phenylacetylindoles: Any compound containing a 3-
28 phenylacetylindole structure with substitution at the nitrogen atom of
29 the indole ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl,
30 cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group,
31 cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-

1 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or
2 tetrahydropyranylmethyl group, whether or not further substituted in or
3 on any of the listed ring systems to any extent;

4 (G) Cyclohexylphenols: Any compound containing a 2-(3-
5 hydroxycyclohexyl)phenol structure with substitution at the 5-position of
6 the phenolic ring by an alkyl, haloalkyl, alkenyl, halobenzyl, benzyl,
7 cycloalkylmethyl, cycloalkylethyl, 2-(4-morpholinyl)ethyl group,
8 cyanoalkyl, 1-(N-methyl-2-piperidinyl)methyl, 1-(N-methyl-2-
9 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or
10 tetrahydropyranylmethyl group, whether or not substituted in or on any of
11 the listed ring systems to any extent;

12 (H) Benzoylindoles: Any compound containing a 3-(benzoyl)indole
13 structure with substitution at the nitrogen atom of the indole ring by an
14 alkyl, haloalkyl, alkenyl, halobenzyl, benzyl, cycloalkylmethyl,
15 cycloalkylethyl, 2-(4-morpholinyl)ethyl group, cyanoalkyl, 1-(N-methyl-2-
16 piperidinyl)methyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
17 morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not
18 further substituted in or on any of the listed ring systems to any
19 extent;

20 (I) Adamantoylindoles: Any compound containing a 3-adamantoylindole
21 structure with substitution at the nitrogen atom of the indole ring by an
22 alkyl, haloalkyl, cyanoalkyl, alkenyl, halobenzyl, benzyl,
23 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,
24 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
25 morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not
26 further substituted in or on any of the listed ring systems to any
27 extent;

28 (J) Tetramethylcyclopropanoylindoles: Any compound containing a 3-
29 tetramethylcyclopropanoylindole structure with substitution at the
30 nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl,
31 alkenyl, halobenzyl, benzyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-

1 methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-
2 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or
3 tetrahydropyranylmethyl group, whether or not further substituted in or
4 on any of the listed ring systems to any extent;

5 (K) Indole carboxamides: Any compound containing a 1-indole-3-
6 carboxamide structure with substitution at the nitrogen atom of the
7 indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, halobenzyl,
8 benzyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
9 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-
10 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or
11 tetrahydropyranylmethyl group, substitution at the carboxamide group by
12 an alkyl, methoxy, benzyl, propionaldehyde, adamantyl, 1-naphthyl,
13 phenyl, aminooxoalkyl group, or quinolinyl group, whether or not further
14 substituted in or on any of the listed ring systems to any extent or to
15 the adamantyl, 1-naphthyl, phenyl, aminooxoalkyl, benzyl, or
16 propionaldehyde groups to any extent;

17 (L) Indole carboxylates: Any compound containing a 1-indole-3-
18 carboxylate structure with substitution at the nitrogen atom of the
19 indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, halobenzyl,
20 benzyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
21 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-
22 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or
23 tetrahydropyranylmethyl group, substitution at the carboxylate group by
24 an alkyl, methoxy, benzyl, propionaldehyde, adamantyl, 1-naphthyl,
25 phenyl, aminooxoalkyl group, or quinolinyl group, whether or not further
26 substituted in or on any of the listed ring systems to any extent or to
27 the adamantyl, 1-naphthyl, phenyl, aminooxoalkyl, benzyl, or
28 propionaldehyde groups to any extent; and

29 (M) Any nonnaturally occurring substance, chemical compound,
30 mixture, or preparation, not specifically listed elsewhere in these
31 schedules and which is not approved for human consumption by the federal

1 Food and Drug Administration, containing or constituting a cannabinoid
2 receptor agonist as defined in section 28-401;

3 ~~(24)~~ (26) Any material, compound, mixture, or preparation containing
4 any quantity of a substituted phenethylamine as listed in subdivisions
5 (A) through (C) of this subdivision, unless specifically excepted, listed
6 in another schedule, or specifically named in this schedule, that is
7 structurally derived from phenylethan-2-amine by substitution on the
8 phenyl ring with a fused methylenedioxy ring, fused furan ring, or a
9 fused tetrahydrofuran ring; by substitution with two alkoxy groups; by
10 substitution with one alkoxy and either one fused furan, tetrahydrofuran,
11 or tetrahydropyran ring system; or by substitution with two fused ring
12 systems from any combination of the furan, tetrahydrofuran, or
13 tetrahydropyran ring systems, whether or not the compound is further
14 modified in any of the following ways:

15 (A) Substitution of the phenyl ring by any halo, hydroxyl, alkyl,
16 trifluoromethyl, alkoxy, or alkylthio groups; (B) substitution at the 2-
17 position by any alkyl groups; or (C) substitution at the 2-amino nitrogen
18 atom with alkyl, dialkyl, benzyl, hydroxybenzyl or methoxybenzyl groups,
19 and including, but not limited to:

20 (i) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine, which is also known
21 as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine;

22 (ii) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine, which is also known
23 as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine;

24 (iii) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine, which is also known
25 as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine;

26 (iv) 2-(2,5-Dimethoxyphenyl)ethanamine, which is also known as 2C-H
27 or 2,5-Dimethoxyphenethylamine;

28 (v) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine, which is also known as
29 2C-I or 2,5-Dimethoxy-4-iodophenethylamine;

30 (vi) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine, which is also known
31 as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine;

- 1 (vii) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine, which is also
2 known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine;
- 3 (viii) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine, which is
4 also known as 2C-T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine;
- 5 (ix) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine, which is
6 also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine;
- 7 (x) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine, which is also known
8 as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine;
- 9 (xi) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine, which is also
10 known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine;
- 11 (xii) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine, which is also
12 known as DOI or 2,5-Dimethoxy-4-iodoamphetamine;
- 13 (xiii) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane, which is also
14 known as DOB or 2,5-Dimethoxy-4-bromoamphetamine;
- 15 (xiv) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine, which is also
16 known as DOC or 2,5-Dimethoxy-4-chloroamphetamine;
- 17 (xv) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-
18 methoxyphenyl)methyl]ethanamine, which is also known as 2C-B-NBOMe; 25B-
19 NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine;
- 20 (xvi) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-
21 methoxyphenyl)methyl]ethanamine, which is also known as 2C-I-NBOMe; 25I-
22 NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine;
- 23 (xvii) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine,
24 which is also known as Mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-
25 methoxybenzyl)phenethylamine;
- 26 (xviii) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-
27 methoxyphenyl)methyl]ethanamine, which is also known as 2C-C-NBOMe; or
28 25C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine;
- 29 (xix) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine,
30 which is also known as 2CB-5-hemiFLY;
- 31 (xx) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-

- 1 yl)ethanamine, which is also known as 2C-B-FLY;
- 2 (xxi) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-
- 3 yl)ethanamine, which is also known as 2C-B-butterFLY;
- 4 (xxii) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7- tetrahydrobenzo[1,2-
- 5 b:4,5-b']difuran-4-yl)-2-aminoethane, which is also known as 2C-B-FLY-
- 6 NBOMe;
- 7 (xxiii) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine,
- 8 which is also known as bromo-benzodifuranylisopropylamine or bromo-
- 9 dragonFLY;
- 10 (xxiv) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine, which
- 11 is also known as 2C-INBOH or 25I-NBOH;
- 12 (xxv) 5-(2-Aminopropyl)benzofuran, which is also known as 5-APB;
- 13 (xxvi) 6-(2-Aminopropyl)benzofuran, which is also known as 6-APB;
- 14 (xxvii) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran, which is also known
- 15 as 5-APDB;
- 16 (xxviii) 6-(2-Aminopropyl)-2,3-dihydrobenzofuran, which is also
- 17 known as 6-APDB;
- 18 (xxix) 2,5-dimethoxy-amphetamine, which is also known as 2, 5-
- 19 dimethoxy- α -methylphenethylamine; 2, 5-DMA;
- 20 (xxx) 2,5-dimethoxy-4-ethylamphetamine, which is also known as DOET;
- 21 (xxxii) 2,5-dimethoxy-4-(n)-propylthiophenethylamine, which is also
- 22 known as 2C-T-7;
- 23 (xxxiii) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 24 (xxxiiii) 4-methyl-2,5-dimethoxy-amphetamine, which is also known as
- 25 4-methyl-2,5-dimethoxy- α -methylphenethylamine; DOM and STP;
- 26 (xxxv) 3,4-methylenedioxy amphetamine, which is also known as MDA;
- 27 (xxxvi) 3,4-methylenedioxymethamphetamine, which is also known as
- 28 MDMA;
- 29 (xxxvii) 3,4-methylenedioxy-N-ethylamphetamine, which is also known
- 30 as N-ethyl- α -methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA; and
- 31 (xxxviii) 3,4,5-trimethoxy amphetamine;

1 ~~(25)~~ ~~(27)~~ Any material, compound, mixture, or preparation containing
2 any quantity of a substituted tryptamine unless specifically excepted,
3 listed in another schedule, or specifically named in this schedule, that
4 is structurally derived from 2-(1H-indol-3-yl)ethanamine, which is also
5 known as tryptamine, by mono- or di-substitution of the amine nitrogen
6 with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom
7 in a cyclic structure whether or not the compound is further substituted
8 at the alpha position with an alkyl group or whether or not further
9 substituted on the indole ring to any extent with any alkyl, alkoxy,
10 halo, hydroxyl, or acetoxy groups, and including, but not limited to:

11 (A) 5-methoxy-N,N-diallyltryptamine, which is also known as 5-MeO-
12 DALT;

13 (B) 4-acetoxy-N,N-dimethyltryptamine, which is also known as 4-AcO-
14 DMT or OAcetylpsilocin;

15 (C) 4-hydroxy-N-methyl-N-ethyltryptamine, which is also known as 4-
16 HO-MET;

17 (D) 4-hydroxy-N,N-diisopropyltryptamine, which is also known as 4-
18 HO-DIPT;

19 (E) 5-methoxy-N-methyl-N-isopropyltryptamine, which is also known as
20 5-MeOMiPT;

21 (F) 5-Methoxy-N,N-Dimethyltryptamine, which is also known as 5-MeO-
22 DMT;

23 (G) 5-methoxy-N,N-diisopropyltryptamine, which is also known as 5-
24 MeO-DiPT;

25 (H) Diethyltryptamine, which is also known as N,N-Diethyltryptamine,
26 DET; and

27 (I) Dimethyltryptamine, which is also known as DMT; and

28 ~~(26)~~~~(A)~~ ~~(28)~~~~(A)~~ Any substance containing any quantity of the
29 following materials, compounds, mixtures, or structures:

30 (i) 3,4-methylenedioxymethcathinone, or bk-MDMA, or methylone;

31 (ii) 3,4-methylenedioxypyrovalerone, or MDPV;

- 1 (iii) 4-methylmethcathinone, or 4-MMC, or mephedrone;
- 2 (iv) 4-methoxymethcathinone, or bk-PMMA, or PMMC, or methedrone;
- 3 (v) Fluoromethcathinone, or FMC;
- 4 (vi) Naphthylpyrovalerone, or naphyrone; or
- 5 (vii) Beta-keto-N-methylbenzodioxolylpropylamine or bk-MBDB or
- 6 butylone; or

7 (B) Unless listed in another schedule, any substance which contains
8 any quantity of any material, compound, mixture, or structure, other than
9 bupropion, that is structurally derived by any means from 2-
10 aminopropan-1-one by substitution at the 1-position with either phenyl,
11 naphthyl, or thiophene ring systems, whether or not the compound is
12 further modified in any of the following ways:

13 (i) Substitution in the ring system to any extent with alkyl,
14 alkoxy, alkylenedioxy, haloalkyl, hydroxyl, or halide substituents,
15 whether or not further substituted in the ring system by one or more
16 other univalent substituents;

17 (ii) Substitution at the 3-position with an acyclic alkyl
18 substituent; or

19 (iii) Substitution at the 2-amino nitrogen atom with alkyl or
20 dialkyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic
21 structure.

22 (d) Unless specifically excepted or unless listed in another
23 schedule, any material, compound, mixture, or preparation which contains
24 any quantity of the following substances having a depressant effect on
25 the central nervous system, including its salts, isomers, and salts of
26 isomers whenever the existence of such salts, isomers, and salts of
27 isomers is possible within the specific chemical designation:

28 (1) Mecloqualone;

29 (2) Methaqualone; and

30 (3) Gamma-Hydroxybutyric Acid. Some other names include: GHB; Gamma-
31 hydroxybutyrate; 4-Hydroxybutyrate; 4-Hydroxybutanoic Acid; Sodium

1 Oxybate; and Sodium Oxybutyrate.

2 (e) Unless specifically excepted or unless listed in another
3 schedule, any material, compound, mixture, or preparation which contains
4 any quantity of the following substances having a stimulant effect on the
5 central nervous system, including its salts, isomers, and salts of
6 isomers:

7 (1) Fenethylline;

8 (2) N-ethylamphetamine;

9 (3) Aminorex; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-
10 dihydro-5-phenyl-2-oxazolamine;

11 (4) Cathinone; 2-amino-1-phenyl-1-propanone; alpha-
12 aminopropiophenone; 2-aminopropiophenone; and norephedrone;

13 (5) Methcathinone, its salts, optical isomers, and salts of optical
14 isomers. Some other names: 2-(methylamino)-propionophenone; alpha-
15 (methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-
16 N-methylaminopropionophenone; methylcathinone; monomethylpropion;
17 ephedrone; N-methylcathinone; AL-464; AL-422; AL-463; and UR1432;

18 (6) (+/-)cis-4-methylaminorex; and (+/-)cis-4,5-dihydro-4-methyl-5-
19 phenyl-2-oxazolamine;

20 (7) N,N-dimethylamphetamine; N,N-alpha-trimethyl-benzeneethanamine;
21 and N,N-alpha-trimethylphenethylamine; and

22 (8) Benzylpiperazine, 1-benzylpiperazine.

23 (f) Any controlled substance analogue to the extent intended for
24 human consumption.

25 Schedule II

26 (a) Any of the following substances except those narcotic drugs
27 listed in other schedules whether produced directly or indirectly by
28 extraction from substances of vegetable origin, independently by means of
29 chemical synthesis, or by combination of extraction and chemical
30 synthesis:

31 (1) Opium and opiate, and any salt, compound, derivative, or

1 preparation of opium or opiate, excluding apomorphine, buprenorphine,
2 thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmeferene,
3 naloxone, and naltrexone and their salts, but including the following:

- 4 (A) Raw opium;
- 5 (B) Opium extracts;
- 6 (C) Opium fluid;
- 7 (D) Powdered opium;
- 8 (E) Granulated opium;
- 9 (F) Tincture of opium;
- 10 (G) Codeine;
- 11 (H) Ethylmorphine;
- 12 (I) Etorphine hydrochloride;
- 13 (J) Hydrocodone;
- 14 (K) Hydromorphone;
- 15 (L) Metopon;
- 16 (M) Morphine;
- 17 (N) Oxycodone;
- 18 (O) Oxymorphone;
- 19 (P) Oripavine;
- 20 (Q) Thebaine; and
- 21 (R) Dihydroetorphine;

22 (2) Any salt, compound, derivative, or preparation thereof which is
23 chemically equivalent to or identical with any of the substances referred
24 to in subdivision (1) of this subdivision, except that these substances
25 shall not include the isoquinoline alkaloids of opium;

26 (3) Opium poppy and poppy straw;

27 (4) Coca leaves and any salt, compound, derivative, or preparation
28 of coca leaves, and any salt, compound, derivative, or preparation
29 thereof which is chemically equivalent to or identical with any of these
30 substances, including cocaine or ecgonine and its salts, optical isomers,
31 and salts of optical isomers, except that the substances shall not

1 include decocainized coca leaves or extractions which do not contain
2 cocaine or ecgonine; and

3 (5) Concentrate of poppy straw, the crude extract of poppy straw in
4 either liquid, solid, or powder form which contains the phenanthrene
5 alkaloids of the opium poppy.

6 (b) Unless specifically excepted or unless in another schedule any
7 of the following opiates, including their isomers, esters, ethers, salts,
8 and salts of their isomers, esters, and ethers whenever the existence of
9 such isomers, esters, ethers, and salts is possible within the specific
10 chemical designation, dextrorphan excepted:

11 (1) Alphaprodine;

12 (2) Anileridine;

13 (3) Bezitramide;

14 (4) Diphenoxylate;

15 (5) Fentanyl;

16 (6) Isomethadone;

17 (7) Levomethorphan;

18 (8) Levorphanol;

19 (9) Metazocine;

20 (10) Methadone;

21 (11) Methadone-intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl
22 butane;

23 (12) Moramide-intermediate, 2-methyl-3-morpholino-1,1-
24 diphenylpropane-carboxylic acid;

25 (13) Pethidine or meperidine;

26 (14) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

27 (15) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-
28 carboxylate;

29 (16) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-
30 carboxylic acid;

31 (17) Phenazocine;

- 1 (18) Piminodine;
 - 2 (19) Racemethorphan;
 - 3 (20) Racemorphan;
 - 4 (21) Dihydrocodeine;
 - 5 (22) Bulk Propoxyphene in nondosage forms;
 - 6 (23) Sufentanil;
 - 7 (24) Alfentanil;
 - 8 (25) Levo-alphaacetylmethadol which is also known as levo-alpha-
 - 9 acetylmethadol, levomethadyl acetate, and LAAM;
 - 10 (26) Carfentanil;
 - 11 (27) Remifentanil;
 - 12 (28) Tapentadol; and
 - 13 (29) Thiafentanil.
- 14 (c) Any material, compound, mixture, or preparation which contains
- 15 any quantity of the following substances having a potential for abuse
- 16 associated with a stimulant effect on the central nervous system:
- 17 (1) Amphetamine, its salts, optical isomers, and salts of its
 - 18 optical isomers;
 - 19 (2) Phenmetrazine and its salts;
 - 20 (3) Methamphetamine, its salts, isomers, and salts of its isomers;
 - 21 (4) Methylphenidate; and
 - 22 (5) Lisdexamfetamine, its salts, isomers, and salts of its isomers.
- 23 (d) Any material, compound, mixture, or preparation which contains
- 24 any quantity of the following substances having a potential for abuse
- 25 associated with a depressant effect on the central nervous system,
- 26 including their salts, isomers, and salts of isomers whenever the
- 27 existence of such salts, isomers, and salts of isomers is possible within
- 28 the specific chemical designations:
- 29 (1) Amobarbital;
 - 30 (2) Secobarbital;
 - 31 (3) Pentobarbital;

1 (4) Phencyclidine; and

2 (5) Glutethimide.

3 (e) Hallucinogenic substances known as:

4 (1) Nabilone. Another name for nabilone: (+/-)-trans-3-(1,1-
5 dimethylheptyl)- 6,6a,7,8,10,10a-Hexahydro-1-hydroxy-6,6-dimethyl-9H-
6 dibenzo(b,d)pyran-9-one; and

7 (2) Dronabinol in an oral solution in a drug product approved by the
8 federal Food and Drug Administration.

9 (f) Unless specifically excepted or unless listed in another
10 schedule, any material, compound, mixture, or preparation which contains
11 any quantity of the following substances:

12 (1) Immediate precursor to amphetamine and methamphetamine:
13 Phenylacetone. Trade and other names shall include, but are not limited
14 to: Phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl
15 ketone;

16 (2) Immediate precursors to phencyclidine, PCP:

17 (A) 1-phenylcyclohexylamine; or

18 (B) 1-piperidinocyclohexanecarbonitrile, PCC; or

19 (3) Immediate precursor to fentanyl; 4-anilino-N-phenethyl-4-
20 piperidine (ANNPP).

21 Schedule III

22 (a) Any material, compound, mixture, or preparation which contains
23 any quantity of the following substances having a potential for abuse
24 associated with a stimulant effect on the central nervous system,
25 including their salts, isomers, whether optical, position, or geometric,
26 and salts of such isomers whenever the existence of such salts, isomers,
27 and salts of isomers is possible within the specific chemical
28 designation:

29 (1) Benzphetamine;

30 (2) Chlorphentermine;

31 (3) Clortermine; and

1 (4) Phendimetrazine.

2 (b) Any material, compound, mixture, or preparation which contains
3 any quantity of the following substances having a potential for abuse
4 associated with a depressant effect on the central nervous system:

5 (1) Any substance which contains any quantity of a derivative of
6 barbituric acid or any salt of a derivative of barbituric acid, except
7 those substances which are specifically listed in other schedules of this
8 section;

9 (2) Chlorhexadol;

10 (3) Embutramide;

11 (4) Lysergic acid;

12 (5) Lysergic acid amide;

13 (6) Methyprylon;

14 (7) Perampanel;

15 (8) Sulfondiethylmethane;

16 (9) Sulfonethylmethane;

17 (10) Sulfonmethane;

18 (11) Nalorphine;

19 (12) Any compound, mixture, or preparation containing amobarbital,
20 secobarbital, pentobarbital, or any salt thereof and one or more other
21 active medicinal ingredients which are not listed in any schedule;

22 (13) Any suppository dosage form containing amobarbital,
23 secobarbital, pentobarbital, or any salt of any of these drugs and
24 approved by the federal Food and Drug Administration for marketing only
25 as a suppository;

26 (14) Any drug product containing gamma-hydroxybutyric acid,
27 including its salts, isomers, and salts of isomers, for which an
28 application is approved under section 505 of the Federal Food, Drug, and
29 Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1, 2014;

30 (15) Ketamine, its salts, isomers, and salts of isomers. Some other
31 names for ketamine: (+/-)-2-(2-chlorophenyl)-2-(methylamino)-

1 cyclohexanone; and

2 (16) Tiletamine and zolazepam or any salt thereof. Trade or other
3 names for a tiletamine-zolazepam combination product shall include, but
4 are not limited to: telazol. Trade or other names for tiletamine shall
5 include, but are not limited to: 2-(ethylamino)-2-(2-thienyl)-
6 cyclohexanone. Trade or other names for zolazepam shall include, but are
7 not limited to: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-
8 trimethylpyrazolo-(3,4-e) (1,4)-diazepin-7(1H)-one, and flupyrazapon.

9 (c) Unless specifically excepted or unless listed in another
10 schedule:

11 (1) Any material, compound, mixture, or preparation containing
12 limited quantities of any of the following narcotic drugs, or any salts
13 calculated as the free anhydrous base or alkaloid, in limited quantities
14 as set forth below:

15 (A) Not more than one and eight-tenths grams of codeine per one
16 hundred milliliters or not more than ninety milligrams per dosage unit,
17 with an equal or greater quantity of an isoquinoline alkaloid of opium;

18 (B) Not more than one and eight-tenths grams of codeine per one
19 hundred milliliters or not more than ninety milligrams per dosage unit,
20 with one or more active, nonnarcotic ingredients in recognized
21 therapeutic amounts;

22 (C) Not more than one and eight-tenths grams of dihydrocodeine per
23 one hundred milliliters or not more than ninety milligrams per dosage
24 unit, with one or more active, nonnarcotic ingredients in recognized
25 therapeutic amounts;

26 (D) Not more than three hundred milligrams of ethylmorphine per one
27 hundred milliliters or not more than fifteen milligrams per dosage unit,
28 with one or more active, nonnarcotic ingredients in recognized
29 therapeutic amounts;

30 (E) Not more than five hundred milligrams of opium per one hundred
31 milliliters or per one hundred grams, or not more than twenty-five

1 milligrams per dosage unit, with one or more active, nonnarcotic
2 ingredients in recognized therapeutic amounts; and

3 (F) Not more than fifty milligrams of morphine per one hundred
4 milliliters or per one hundred grams with one or more active, nonnarcotic
5 ingredients in recognized therapeutic amounts; and

6 (2) Any material, compound, mixture, or preparation containing any
7 of the following narcotic drug or its salts, as set forth below:

8 (A) Buprenorphine.

9 (d) Unless contained on the list of exempt anabolic steroids of the
10 Drug Enforcement Administration of the United States Department of
11 Justice as the list existed on November 9, 2017, any anabolic steroid,
12 which shall include any material, compound, mixture, or preparation
13 containing any quantity of the following substances, including its salts,
14 isomers, and salts of isomers whenever the existence of such salts of
15 isomers is possible within the specific chemical designation:

16 (1) 3-beta,17-dihydroxy-5a-androstane;

17 (2) 3-alpha,17-beta-dihydroxy-5a-androstane;

18 (3) 5-alpha-androstan-3,17-dione;

19 (4) 1-androstenediol (3-beta,17-beta-dihydroxy-5-alpha-androst-1-
20 ene);

21 (5) 1-androstenediol (3-alpha,17-beta-dihydroxy-5-alpha-androst-1-
22 ene);

23 (6) 4-androstenediol (3-beta,17-beta-dihydroxy-androst-5-ene);

24 (7) 5-androstenediol (3-beta,17-beta-dihydroxy-androst-5-ene);

25 (8) 1-androstenedione ([5-alpha]-androst-1-en-3,17-dione);

26 (9) 4-androstenedione (androst-4-en-3,17-dione);

27 (10) 5-androstenedione (androst-5-en-3,17-dione);

28 (11) Bolasterone (7-alpha,17-alpha-dimethyl-17-beta-
29 hydroxyandrost-4-en-3-one);

30 (12) Boldenone (17-beta-hydroxyandrost-1,4-diene-3-one);

31 (13) Boldione (androsta-1,4-diene-3,17-3-one);

- 1 (14) Calusterone (7-beta,17-alpha-dimethyl-17-beta-hydroxyandrost-4-
2 en-3-one);
- 3 (15) Clostebol (4-chloro-17-beta-hydroxyandrost-4-en-3-one);
- 4 (16) Dehydrochloromethyltestosterone (4-chloro-17-beta-hydroxy-17-
5 alpha-methyl-androst-1,4-dien-3-one);
- 6 (17) Desoxymethyltestosterone (17-alpha-methyl-5-alpha-androst-2-
7 en-17-beta-ol) (a.k.a. 'madol');
- 8 (18) Delta-1-Dihydrotestosterone (a.k.a. '1-testosterone')(17-beta-
9 hydroxy-5-alpha-androst-1-en-3-one);
- 10 (19) 4-Dihydrotestosterone (17-beta-hydroxy-androstan-3-one);
- 11 (20) Drostanolone (17-beta-hydroxy-2-alpha-methyl-5-alpha-
12 androstan-3-one);
- 13 (21) Ethylestrenol (17-alpha-ethyl-17-beta-hydroxyestr-4-ene);
- 14 (22) Fluoxymesterone (9-fluoro-17-alpha-methyl-11-beta,17-beta-
15 dihydroxyandrost-4-en-3-one);
- 16 (23) Formebolone (formebolone); (2-formyl-17-alpha-methyl-11-
17 alpha,17-beta-dihydroxyandrost-1,4-dien-3-one);
- 18 (24) Furazabol (17-alpha-methyl-17-beta-hydroxyandrostan[2,3-c]-
19 furazan);
- 20 (25) 13-beta-ethyl-17-beta-hydroxygon-4-en-3-one;
- 21 (26) 4-hydroxytestosterone (4,17-beta-dihydroxy-androst-4-en-3-one);
- 22 (27) 4-hydroxy-19-nortestosterone (4,17-beta-dihydroxy-estr-4-en-3-
23 one);
- 24 (28) Mestanolone (17-alpha-methyl-17-beta-hydroxy-5-androstan-3-
25 one);
- 26 (29) Mesterolone (17-alpha-methyl-17-beta-hydroxy-5-androstan-3-
27 one);
- 28 (30) Methandienone (17-alpha-methyl-17-beta-hydroxyandrost-1,4-
29 dien-3-one);
- 30 (31) Methandriol (17-alpha-methyl-3-beta,17-beta-dihydroxyandrost-5-
31 ene);

- 1 (32) Methasterone (2-alpha,17-alpha-dimethyl-5-alpha-androstan-17-
2 beta-ol-3-one);
- 3 (33) Methenolone (1-methyl-17-beta-hydroxy-5-alpha-androst-1-en-3-
4 one);
- 5 (34) 17-alpha-methyl-3-beta,17-beta-dihydroxy-5a-androstane;
- 6 (35) 17-alpha-methyl-3-alpha,17-beta-dihydroxy-5a-androstane;
- 7 (36) 17-alpha-methyl-3-beta,17-beta-dihydroxyandrost-4-ene;
- 8 (37) 17-alpha-methyl-4-hydroxynandrolone (17-alpha-methyl-4-
9 hydroxy-17-beta-hydroxyestr-4-en-3-one);
- 10 (38) Methyldienolone (17-alpha-methyl-17-beta-hydroxyestra-4,9(10)-
11 dien-3-one);
- 12 (39) Methyltrienolone (17-alpha-methyl-17-beta-hydroxyestra-4,9,11-
13 trien-3-one);
- 14 (40) Methyltestosterone (17-alpha-methyl-17-beta-hydroxyandrost-4-
15 en-3-one);
- 16 (41) Mibolerone (7-alpha,17-alpha-dimethyl-17-beta-hydroxyestr-4-
17 en-3-one);
- 18 (42) 17-alpha-methyl-delta-1-dihydrotestosterone (17-beta-
19 hydroxy-17-alpha-methyl-5-alpha-androst-1-en-3-one) (a.k.a. '17-alpha-
20 methyl-1-testosterone');
- 21 (43) Nandrolone (17-beta-hydroxyestr-4-en-3-one);
- 22 (44) 19-nor-4-androstenediol (3-beta, 17-beta-dihydroxyestr-4-ene);
- 23 (45) 19-nor-4-androstenediol (3-alpha, 17-beta-dihydroxyestr-4-ene);
- 24 (46) 19-nor-5-androstenediol (3-beta, 17-beta-dihydroxyestr-5-ene);
- 25 (47) 19-nor-5-androstenediol (3-alpha, 17-beta-dihydroxyestr-5-ene);
- 26 (48) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-
27 dione);
- 28 (49) 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- 29 (50) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- 30 (51) Norbolethone (13-beta, 17-alpha-diethyl-17-beta-hydroxygon-4-
31 en-3-one);

- 1 (52) Norclostebol (4-chloro-17-beta-hydroxyestr-4-en-3-one);
- 2 (53) Norethandrolone (17-alpha-ethyl-17-beta-hydroxyestr-4-en-3-
- 3 one);
- 4 (54) Normethandrolone (17-alpha-methyl-17-beta-hydroxyestr-4-en-3-
- 5 one);
- 6 (55) Oxandrolone (17-alpha-methyl-17-beta-hydroxy-2-oxa-[5-alpha]-
- 7 androstan-3-one);
- 8 (56) Oxymesterone (17-alpha-methyl-4,17-beta-dihydroxyandrost-4-
- 9 en-3-one);
- 10 (57) Oxymetholone (17-alpha-methyl-2-hydroxymethylene-17-beta-
- 11 hydroxy-[5-alpha]-androstan-3-one);
- 12 (58) Prostanazol (17-beta-hydroxy-5-alpha-androstano[3,2-
- 13 c]pyrazole);
- 14 (59) Stanozolol (17-alpha-methyl-17-beta-hydroxy-[5-alpha]-
- 15 androst-2-eno[3,2-c]-pyrazole);
- 16 (60) Stenbolone (17-beta-hydroxy-2-methyl-[5-alpha]-androst-1-en-3-
- 17 one);
- 18 (61) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-
- 19 oic acid lactone);
- 20 (62) Testosterone (17-beta-hydroxyandrost-4-en-3-one);
- 21 (63) Tetrahydrogestrinone (13-beta, 17-alpha-diethyl-17-beta-
- 22 hydroxygon-4,9,11-trien-3-one);
- 23 (64) Trenbolone (17-beta-hydroxyestr-4,9,11-trien-3-one); and
- 24 (65) Any salt, ester, or ether of a drug or substance described or
- 25 listed in this subdivision if the salt, ester, or ether promotes muscle
- 26 growth.
- 27 (e) Hallucinogenic substances known as:
- 28 (1) Dronabinol, synthetic, in sesame oil and encapsulated in a soft
- 29 gelatin capsule in a drug product approved by the federal Food and Drug
- 30 Administration. Some other names for dronabinol are (6aR-
- 31 trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo

1 (b,d)pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol.

2 Schedule IV

3 (a) Any material, compound, mixture, or preparation which contains
4 any quantity of the following substances, including their salts, isomers,
5 and salts of isomers whenever the existence of such salts, isomers, and
6 salts of isomers is possible within the specific chemical designation:

7 (1) Barbital;

8 (2) Chloral betaine;

9 (3) Chloral hydrate;

10 (4) Chlordiazepoxide, but not including librax (chlordiazepoxide
11 hydrochloride and clindinium bromide) or menrium (chlordiazepoxide and
12 water soluble esterified estrogens);

13 (5) Clonazepam;

14 (6) Clorazepate;

15 (7) Diazepam;

16 (8) Ethchlorvynol;

17 (9) Ethinamate;

18 (10) Flurazepam;

19 (11) Mebutamate;

20 (12) Meprobamate;

21 (13) Methohexital;

22 (14) Methylphenobarbital;

23 (15) Oxazepam;

24 (16) Paraldehyde;

25 (17) Petrichloral;

26 (18) Phenobarbital;

27 (19) Prazepam;

28 (20) Alprazolam;

29 (21) Bromazepam;

30 (22) Camazepam;

31 (23) Clobazam;

- 1 (24) Clotiazepam;
- 2 (25) Cloxazolam;
- 3 (26) Delorazepam;
- 4 (27) Estazolam;
- 5 (28) Ethyl loflazepate;
- 6 (29) Fludiazepam;
- 7 (30) Flunitrazepam;
- 8 (31) Halazepam;
- 9 (32) Haloxazolam;
- 10 (33) Ketazolam;
- 11 (34) Loprazolam;
- 12 (35) Lorazepam;
- 13 (36) Lormetazepam;
- 14 (37) Medazepam;
- 15 (38) Nimetazepam;
- 16 (39) Nitrazepam;
- 17 (40) Nordiazepam;
- 18 (41) Oxazolam;
- 19 (42) Pinazepam;
- 20 (43) Temazepam;
- 21 (44) Tetrazepam;
- 22 (45) Triazolam;
- 23 (46) Midazolam;
- 24 (47) Quazepam;
- 25 (48) Zolpidem;
- 26 (49) Dichloralphenazone;
- 27 (50) Zaleplon;
- 28 (51) Zopiclone;
- 29 (52) Fospropofol;
- 30 (53) Alfaxalone;
- 31 (54) Suvorexant; and

1 (55) Carisoprodol.

2 (b) Any material, compound, mixture, or preparation which contains
3 any quantity of the following substance, including its salts, isomers,
4 whether optical, position, or geometric, and salts of such isomers,
5 whenever the existence of such salts, isomers, and salts of isomers is
6 possible: Fenfluramine.

7 (c) Unless specifically excepted or unless listed in another
8 schedule, any material, compound, mixture, or preparation which contains
9 any quantity of the following substances having a stimulant effect on the
10 central nervous system, including their salts, isomers, whether optical,
11 position, or geometric, and salts of such isomers whenever the existence
12 of such salts, isomers, and salts of isomers is possible within the
13 specific chemical designation:

14 (1) Diethylpropion;

15 (2) Phentermine;

16 (3) Pemoline, including organometallic complexes and chelates
17 thereof;

18 (4) Mazindol;

19 (5) Pipradrol;

20 (6) SPA, ((-)-1-dimethylamino- 1,2-diphenylethane);

21 (7) Cathine. Another name for cathine is ((+)-norpseudoephedrine);

22 (8) Fencamfamin;

23 (9) Fenproporex;

24 (10) Mefenorex;

25 (11) Modafinil; and

26 (12) Sibutramine.

27 (d) Unless specifically excepted or unless listed in another
28 schedule, any material, compound, mixture, or preparation which contains
29 any quantity of the following narcotic drugs, or their salts or isomers
30 calculated as the free anhydrous base or alkaloid, in limited quantities
31 as set forth below:

1 (1) Propoxyphene in manufactured dosage forms;

2 (2) Not more than one milligram of difenoxin and not less than
3 twenty-five micrograms of atropine sulfate per dosage unit; and

4 (3) 2-[[dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its
5 salts, optical and geometric isomers, and salts of these isomers to
6 include: Tramadol.

7 (e) Unless specifically excepted or unless listed in another
8 schedule, any material, compound, mixture, or preparation which contains
9 any quantity of the following substance, including its salts:

10 (1) Pentazocine; and

11 (2) Butorphanol (including its optical isomers).

12 (f) Any material, compound, mixture, or preparation which contains
13 any quantity of the following substances, including its salts, isomers,
14 and salts of such isomers, whenever the existence of such salts, isomers,
15 and salts of isomers is possible: Lorcaserin.

16 (g)(1) Unless specifically excepted or unless listed in another
17 schedule, any material, compound, mixture, or preparation which contains
18 any quantity of the following substance, including its salts, optical
19 isomers, and salts of such optical isomers: Ephedrine.

20 (2) The following drug products containing ephedrine, its salts,
21 optical isomers, and salts of such optical isomers, are excepted from
22 subdivision (g)(1) of Schedule IV if they (A) are stored behind a
23 counter, in an area not accessible to customers, or in a locked case so
24 that a customer needs assistance from an employee to access the drug
25 product; (B) are sold by a person, eighteen years of age or older, in the
26 course of his or her employment to a customer eighteen years of age or
27 older with the following restrictions: No customer shall be allowed to
28 purchase, receive, or otherwise acquire more than three and six-tenths
29 grams of ephedrine base during a twenty-four-hour period; no customer
30 shall purchase, receive, or otherwise acquire more than nine grams of
31 ephedrine base during a thirty-day period; and the customer shall display

1 a valid driver's or operator's license, a Nebraska state identification
2 card, a military identification card, an alien registration card, or a
3 passport as proof of identification; (C) are labeled and marketed in a
4 manner consistent with the pertinent OTC Tentative Final or Final
5 Monograph; (D) are manufactured and distributed for legitimate medicinal
6 use in a manner that reduces or eliminates the likelihood of abuse; and
7 (E) are not marketed, advertised, or represented in any manner for the
8 indication of stimulation, mental alertness, euphoria, ecstasy, a buzz or
9 high, heightened sexual performance, or increased muscle mass:

10 (i) Primatene Tablets; and

11 (ii) Bronkaid Dual Action Caplets.

12 Schedule V

13 (a) Any compound, mixture, or preparation containing any of the
14 following limited quantities of narcotic drugs or salts calculated as the
15 free anhydrous base or alkaloid, which shall include one or more
16 nonnarcotic active medicinal ingredients in sufficient proportion to
17 confer upon the compound, mixture, or preparation valuable medicinal
18 qualities other than those possessed by the narcotic drug alone:

19 (1) Not more than two hundred milligrams of codeine per one hundred
20 milliliters or per one hundred grams;

21 (2) Not more than one hundred milligrams of dihydrocodeine per one
22 hundred milliliters or per one hundred grams;

23 (3) Not more than one hundred milligrams of ethylmorphine per one
24 hundred milliliters or per one hundred grams;

25 (4) Not more than two and five-tenths milligrams of diphenoxylate
26 and not less than twenty-five micrograms of atropine sulfate per dosage
27 unit;

28 (5) Not more than one hundred milligrams of opium per one hundred
29 milliliters or per one hundred grams; and

30 (6) Not more than five-tenths milligram of difenoxin and not less
31 than twenty-five micrograms of atropine sulfate per dosage unit.

1 (b) Unless specifically exempted or excluded or unless listed in
2 another schedule, any material, compound, mixture, or preparation which
3 contains any quantity of the following substances having a stimulant
4 effect on the central nervous system, including its salts, isomers, and
5 salts of isomers: Pyrovalerone.

6 (c) Unless specifically exempted or excluded or unless listed in
7 another schedule, any material, compound, mixture, or preparation which
8 contains any quantity of the following substances having a depressant
9 effect on the central nervous system, including its salts, isomers, and
10 salts of isomers:

11 (1) Ezogabine (N-(2-amino-4-(4-fluorobenzylamino)-phenyl)-carbamic
12 acid ethyl ester);

13 (2) Lacosamide ((R)-2-acetoamido-N-benzyl-3-methoxy-propionamide);

14 (3) Pregabalin ((S)-3-(aminomethyl)-5-methylhexanoic acid); and

15 (4) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl]
16 butanamide) (also referred to as BRV; UCB-34714; Briviact), including its
17 salts.

18 (d) Cannabidiol in a drug product approved by the federal Food and
19 Drug Administration.

20 Sec. 189. Section 28-416, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

22 28-416 (1) Except as authorized by the Uniform Controlled Substances
23 Act, it shall be unlawful for any person knowingly or intentionally: (a)
24 To manufacture, distribute, deliver, dispense, or possess with intent to
25 manufacture, distribute, deliver, or dispense a controlled substance; or
26 (b) to create, distribute, or possess with intent to distribute a
27 counterfeit controlled substance.

28 (2) Except as provided in subsections (4), (5), (7), (8), (9), and
29 (10) of this section, any person who violates subsection (1) of this
30 section with respect to: (a) A controlled substance classified in
31 Schedule I, II, or III of section 28-405 which is an exceptionally

1 hazardous drug shall be guilty of a Class II felony; (b) any other
2 controlled substance classified in Schedule I, II, or III of section
3 28-405 shall be guilty of a Class IIA felony; or (c) a controlled
4 substance classified in Schedule IV or V of section 28-405 shall be
5 guilty of a Class IIIA felony.

6 (3) A person knowingly or intentionally possessing a controlled
7 substance, except ~~marijuana~~ or any substance containing a quantifiable
8 amount of the substances, chemicals, or compounds described, defined, or
9 delineated in subdivision (c)(23) ~~(c)(25)~~ of Schedule I of section
10 28-405, unless such substance was obtained directly or pursuant to a
11 medical order issued by a practitioner authorized to prescribe while
12 acting in the course of his or her professional practice, or except as
13 otherwise authorized by the act, shall be guilty of a Class IV felony. A
14 person shall not be in violation of this subsection if section 28-472
15 applies.

16 (4)(a) Except as authorized by the Uniform Controlled Substances
17 Act, any person eighteen years of age or older who knowingly or
18 intentionally manufactures, distributes, delivers, dispenses, or
19 possesses with intent to manufacture, distribute, deliver, or dispense a
20 controlled substance or a counterfeit controlled substance (i) to a
21 person under the age of eighteen years, (ii) in, on, or within one
22 thousand feet of the real property comprising a public or private
23 elementary, vocational, or secondary school, a community college, a
24 public or private college, junior college, or university, or a
25 playground, or (iii) within one hundred feet of a public or private youth
26 center, public swimming pool, or video arcade facility shall be punished
27 by the next higher penalty classification than the penalty prescribed in
28 subsection (2), (7), (8), (9), or (10) of this section, depending upon
29 the controlled substance involved, for the first violation and for a
30 second or subsequent violation shall be punished by the next higher
31 penalty classification than that prescribed for a first violation of this

1 subsection, but in no event shall such person be punished by a penalty
2 greater than a Class IB felony.

3 (b) For purposes of this subsection:

4 (i) Playground means any outdoor facility, including any parking lot
5 appurtenant to the facility, intended for recreation, open to the public,
6 and with any portion containing three or more apparatus intended for the
7 recreation of children, including sliding boards, swingsets, and
8 teeterboards;

9 (ii) Video arcade facility means any facility legally accessible to
10 persons under eighteen years of age, intended primarily for the use of
11 pinball and video machines for amusement, and containing a minimum of ten
12 pinball or video machines; and

13 (iii) Youth center means any recreational facility or gymnasium,
14 including any parking lot appurtenant to the facility or gymnasium,
15 intended primarily for use by persons under eighteen years of age which
16 regularly provides athletic, civic, or cultural activities.

17 (5)(a) Except as authorized by the Uniform Controlled Substances
18 Act, it shall be unlawful for any person eighteen years of age or older
19 to knowingly and intentionally employ, hire, use, cause, persuade, coax,
20 induce, entice, seduce, or coerce any person under the age of eighteen
21 years to manufacture, transport, distribute, carry, deliver, dispense,
22 prepare for delivery, offer for delivery, or possess with intent to do
23 the same a controlled substance or a counterfeit controlled substance.

24 (b) Except as authorized by the Uniform Controlled Substances Act,
25 it shall be unlawful for any person eighteen years of age or older to
26 knowingly and intentionally employ, hire, use, cause, persuade, coax,
27 induce, entice, seduce, or coerce any person under the age of eighteen
28 years to aid and abet any person in the manufacture, transportation,
29 distribution, carrying, delivery, dispensing, preparation for delivery,
30 offering for delivery, or possession with intent to do the same of a
31 controlled substance or a counterfeit controlled substance.

1 (c) Any person who violates subdivision (a) or (b) of this
2 subsection shall be punished by the next higher penalty classification
3 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
4 this section, depending upon the controlled substance involved, for the
5 first violation and for a second or subsequent violation shall be
6 punished by the next higher penalty classification than that prescribed
7 for a first violation of this subsection, but in no event shall such
8 person be punished by a penalty greater than a Class IB felony.

9 (6) It shall not be a defense to prosecution for violation of
10 subsection (4) or (5) of this section that the defendant did not know the
11 age of the person through whom the defendant violated such subsection.

12 (7) Any person who violates subsection (1) of this section with
13 respect to cocaine or any mixture or substance containing a detectable
14 amount of cocaine in a quantity of:

15 (a) One hundred forty grams or more shall be guilty of a Class IB
16 felony;

17 (b) At least twenty-eight grams but less than one hundred forty
18 grams shall be guilty of a Class IC felony; or

19 (c) At least ten grams but less than twenty-eight grams shall be
20 guilty of a Class ID felony.

21 (8) Any person who violates subsection (1) of this section with
22 respect to base cocaine (crack) or any mixture or substance containing a
23 detectable amount of base cocaine in a quantity of:

24 (a) One hundred forty grams or more shall be guilty of a Class IB
25 felony;

26 (b) At least twenty-eight grams but less than one hundred forty
27 grams shall be guilty of a Class IC felony; or

28 (c) At least ten grams but less than twenty-eight grams shall be
29 guilty of a Class ID felony.

30 (9) Any person who violates subsection (1) of this section with
31 respect to heroin or any mixture or substance containing a detectable

1 amount of heroin in a quantity of:

2 (a) One hundred forty grams or more shall be guilty of a Class IB
3 felony;

4 (b) At least twenty-eight grams but less than one hundred forty
5 grams shall be guilty of a Class IC felony; or

6 (c) At least ten grams but less than twenty-eight grams shall be
7 guilty of a Class ID felony.

8 (10) Any person who violates subsection (1) of this section with
9 respect to amphetamine, its salts, optical isomers, and salts of its
10 isomers, or with respect to methamphetamine, its salts, optical isomers,
11 and salts of its isomers, in a quantity of:

12 (a) One hundred forty grams or more shall be guilty of a Class IB
13 felony;

14 (b) At least twenty-eight grams but less than one hundred forty
15 grams shall be guilty of a Class IC felony; or

16 (c) At least ten grams but less than twenty-eight grams shall be
17 guilty of a Class ID felony.

18 ~~(11) Any person knowingly or intentionally possessing marijuana~~
19 ~~weighing more than one ounce but not more than one pound shall be guilty~~
20 ~~of a Class III misdemeanor.~~

21 ~~(12) Any person knowingly or intentionally possessing marijuana~~
22 ~~weighing more than one pound shall be guilty of a Class IV felony.~~

23 (11) ~~(13)~~ Any person knowingly or intentionally possessing marijuana
24 ~~weighing one ounce or less or any substance containing a quantifiable~~
25 ~~amount of the substances, chemicals, or compounds described, defined, or~~
26 ~~delineated in subdivision (c)(23) (e)(25) of Schedule I of section 28-405~~
27 shall:

28 (a) For the first offense, be guilty of an infraction, receive a
29 citation, be fined three hundred dollars, and be assigned to attend a
30 course as prescribed in section 29-433 if the judge determines that
31 attending such course is in the best interest of the individual

1 defendant;

2 (b) For the second offense, be guilty of a Class IV misdemeanor,
3 receive a citation, and be fined four hundred dollars and may be
4 imprisoned not to exceed five days; and

5 (c) For the third and all subsequent offenses, be guilty of a Class
6 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and
7 be imprisoned not to exceed seven days.

8 (12) ~~(14)~~ Any person convicted of violating this section, if placed
9 on probation, shall, as a condition of probation, satisfactorily attend
10 and complete appropriate treatment and counseling on drug abuse provided
11 by a program authorized under the Nebraska Behavioral Health Services Act
12 or other licensed drug treatment facility.

13 (13) ~~(15)~~ Any person convicted of violating this section, if
14 sentenced to the Department of Correctional Services, shall attend
15 appropriate treatment and counseling on drug abuse.

16 (14) ~~(16)~~ Any person knowingly or intentionally possessing a firearm
17 while in violation of subsection (1) of this section shall be punished by
18 the next higher penalty classification than the penalty prescribed in
19 subsection (2), (7), (8), (9), or (10) of this section, but in no event
20 shall such person be punished by a penalty greater than a Class IB
21 felony.

22 (15) ~~(17)~~ A person knowingly or intentionally in possession of money
23 used or intended to be used to facilitate a violation of subsection (1)
24 of this section shall be guilty of a Class IV felony.

25 (16) ~~(18)~~ In addition to the existing penalties available for a
26 violation of subsection (1) of this section, including any criminal
27 attempt or conspiracy to violate subsection (1) of this section, a
28 sentencing court may order that any money, securities, negotiable
29 instruments, firearms, conveyances, or electronic communication devices
30 as defined in section 28-833 or any equipment, components, peripherals,
31 software, hardware, or accessories related to electronic communication

1 devices be forfeited as a part of the sentence imposed if it finds by
2 clear and convincing evidence adduced at a separate hearing in the same
3 prosecution, following conviction for a violation of subsection (1) of
4 this section, and conducted pursuant to section 28-1601, that any or all
5 such property was derived from, used, or intended to be used to
6 facilitate a violation of subsection (1) of this section.

7 ~~(17)~~ (19) In addition to the penalties provided in this section:

8 (a) If the person convicted or adjudicated of violating this section
9 is eighteen years of age or younger and has one or more licenses or
10 permits issued under the Motor Vehicle Operator's License Act: (i) For
11 the first offense, the court may, as a part of the judgment of conviction
12 or adjudication, (A) impound any such licenses or permits for thirty days
13 and (B) require such person to attend a drug education class;

14 (ii) For a second offense, the court may, as a part of the judgment
15 of conviction or adjudication, (A) impound any such licenses or permits
16 for ninety days and (B) require such person to complete no fewer than
17 twenty and no more than forty hours of community service and to attend a
18 drug education class; and

19 (iii) For a third or subsequent offense, the court may, as a part of
20 the judgment of conviction or adjudication, (A) impound any such licenses
21 or permits for twelve months and (B) require such person to complete no
22 fewer than sixty hours of community service, to attend a drug education
23 class, and to submit to a drug assessment by a licensed alcohol and drug
24 counselor; and

25 (b) If the person convicted or adjudicated of violating this section
26 is eighteen years of age or younger and does not have a permit or license
27 issued under the Motor Vehicle Operator's License Act: (i) For the first
28 offense, the court may, as part of the judgment of conviction or
29 adjudication, (A) prohibit such person from obtaining any permit or any
30 license pursuant to the act for which such person would otherwise be
31 eligible until thirty days after the date of such order and (B) require

1 such person to attend a drug education class;

2 (ii) For a second offense, the court may, as part of the judgment of
3 conviction or adjudication, (A) prohibit such person from obtaining any
4 permit or any license pursuant to the act for which such person would
5 otherwise be eligible until ninety days after the date of such order and
6 (B) require such person to complete no fewer than twenty hours and no
7 more than forty hours of community service and to attend a drug education
8 class; and

9 (iii) For a third or subsequent offense, the court may, as part of
10 the judgment of conviction or adjudication, (A) prohibit such person from
11 obtaining any permit or any license pursuant to the act for which such
12 person would otherwise be eligible until twelve months after the date of
13 such order and (B) require such person to complete no fewer than sixty
14 hours of community service, to attend a drug education class, and to
15 submit to a drug assessment by a licensed alcohol and drug counselor.

16 A copy of an abstract of the court's conviction or adjudication
17 shall be transmitted to the Director of Motor Vehicles pursuant to
18 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
19 juvenile is prohibited from obtaining a license or permit under this
20 subsection.

21 Sec. 190. Section 28-439, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 28-439 As used in sections 28-101, 28-431, and 28-439 to 28-444,
24 unless the context otherwise requires, drug paraphernalia shall mean all
25 equipment, products, and materials of any kind which are used, intended
26 for use, or designed for use, in manufacturing, injecting, ingesting,
27 inhaling, or otherwise introducing into the human body a controlled
28 substance in violation of sections 28-101, 28-431, and 28-439 to 28-444
29 or the Uniform Controlled Substances Act. It shall include, but not be
30 limited to, the following:

31 (1) Diluents and adulterants, such as quinine hydrochloride,

1 mannitol, mannite, dextrose, and lactose, used, intended for use, or
2 designed for use in cutting controlled substances;

3 ~~(2) Separation gins and sifters used, intended for use, or designed~~
4 ~~for use in removing twigs and seeds from, or in otherwise cleaning or~~
5 ~~refining, marijuana;~~

6 ~~(2) (3)~~ Hypodermic syringes, needles, and other objects used,
7 intended for use, and designed for use in parenterally injecting
8 controlled substances into the human body; and

9 ~~(3) (4)~~ Objects used, intended for use, or designed for use in
10 ingesting, inhaling, or otherwise introducing ~~marijuana, cocaine,~~
11 ~~hashish, or hashish oil~~ into the human body, ~~which shall include but~~
12 ~~not be limited to the following:~~

13 ~~(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes~~
14 ~~with or without screens, permanent screens, hashish heads, or punctured~~
15 ~~metal bowls;~~

16 ~~(b) Water pipes;~~

17 ~~(c) Carburetion tubes and devices;~~

18 ~~(d) Smoking and carburetion masks;~~

19 ~~(e) Roach clips, meaning objects used to hold burning material, such~~
20 ~~as a marijuana cigarette, which has become too small or too short to be~~
21 ~~held in the hand;~~

22 ~~(f) Miniature cocaine spoons, and cocaine vials;~~

23 ~~(g) Chamber pipes;~~

24 ~~(h) Carburetor pipes;~~

25 ~~(i) Electric pipes;~~

26 ~~(j) Air driven pipes;~~

27 ~~(k) Chillums;~~

28 ~~(l) Bongs; and~~

29 ~~(m) Ice pipes or chillers.~~

30 Sec. 191. Section 28-476, Revised Statutes Cumulative Supplement,
31 2020, is amended to read:

1 28-476 (1) Any person other than the Department of Agriculture, a
2 cultivator, a processor-handler, or an approved testing facility who is
3 transporting hemp shall carry with such hemp being transported (a) a bill
4 of lading indicating the owner of the hemp, the point of origin of the
5 hemp, and the destination of the hemp and (b) either a copy of the test
6 results pertaining to such hemp or other documentation affirming that the
7 hemp was produced in compliance with the federal Agriculture Improvement
8 Act of 2018.

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

11 (i) Produced in compliance with:

12 (A) For hemp originating in this state, the requirements of the
13 federal Agriculture Improvement Act of 2018 under the Nebraska Hemp
14 Farming Act and any rules and regulations adopted and promulgated
15 thereunder, a tribal hemp production plan approved by the United States
16 Secretary of Agriculture, or the United States Department of Agriculture
17 Domestic Hemp Production Plan; or

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

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

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

24 (3)(a) A peace officer may detain any person carrying or
25 transporting hemp in this state if such person does not provide the
26 documentation required by this section and section 2-515. Unless the
27 peace officer has probable cause to believe the hemp is, or is being
28 carried or transported with, marijuana or any ~~other~~ controlled substance,
29 the peace officer shall immediately release the hemp and the person
30 carrying or transporting such hemp upon production of such documentation.

31 (b) The failure of a person detained as described in this subsection

1 to produce documentation required by this section shall constitute
2 probable cause to believe the hemp may be marijuana or a ~~another~~
3 controlled substance. In such case, a peace officer may collect such hemp
4 for testing to determine the delta-9 tetrahydrocannabinol concentration
5 in the hemp, and, if the peace officer has probable cause to believe the
6 person detained is carrying or transporting marijuana or any ~~other~~
7 controlled substance in violation of state or federal law, the peace
8 officer may seize and impound the hemp or marijuana or ~~other~~ controlled
9 substance and arrest such person.

10 (c) This subsection does not limit or restrict in any way the power
11 of a peace officer to enforce violations of the Uniform Controlled
12 Substances Act and federal law regulating marijuana and other controlled
13 substances.

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

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

21 (6) For purposes of this section:

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

24 (b) Approved testing facility has the same meaning as in section
25 2-503;

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

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

28 Sec. 192. Section 28-1354, Revised Statutes Cumulative Supplement,
29 2020, is amended to read:

30 28-1354 For purposes of the Public Protection Act:

31 (1) Enterprise means any individual, sole proprietorship,

1 partnership, corporation, trust, association, or any legal entity, union,
2 or group of individuals associated in fact although not a legal entity,
3 and shall include illicit as well as licit enterprises as well as other
4 entities;

5 (2) Pattern of racketeering activity means a cumulative loss for one
6 or more victims or gains for the enterprise of not less than one thousand
7 five hundred dollars resulting from at least two acts of racketeering
8 activity, one of which occurred after August 30, 2009, and the last of
9 which occurred within ten years, excluding any period of imprisonment,
10 after the commission of a prior act of racketeering activity;

11 (3) Until January 1, 2017, person means any individual or entity, as
12 defined in section 21-2014, holding or capable of holding a legal,
13 equitable, or beneficial interest in property. Beginning January 1, 2017,
14 person means any individual or entity, as defined in section 21-214,
15 holding or capable of holding a legal, equitable, or beneficial interest
16 in property;

17 (4) Prosecutor includes the Attorney General of the State of
18 Nebraska, the deputy attorney general, assistant attorneys general, a
19 county attorney, a deputy county attorney, or any person so designated by
20 the Attorney General, a county attorney, or a court of the state to carry
21 out the powers conferred by the act;

22 (5) Racketeering activity includes the commission of, criminal
23 attempt to commit, conspiracy to commit, aiding and abetting in the
24 commission of, aiding in the consummation of, acting as an accessory to
25 the commission of, or the solicitation, coercion, or intimidation of
26 another to commit or aid in the commission of any of the following:

27 (a) Offenses against the person which include: Murder in the first
28 degree under section 28-303; murder in the second degree under section
29 28-304; manslaughter under section 28-305; assault in the first degree
30 under section 28-308; assault in the second degree under section 28-309;
31 assault in the third degree under section 28-310; terroristic threats

1 under section 28-311.01; kidnapping under section 28-313; false
2 imprisonment in the first degree under section 28-314; false imprisonment
3 in the second degree under section 28-315; sexual assault in the first
4 degree under section 28-319; and robbery under section 28-324;

5 (b) Offenses relating to controlled substances which include: To
6 unlawfully manufacture, distribute, deliver, dispense, or possess with
7 intent to manufacture, distribute, deliver, or dispense a controlled
8 substance under subsection (1) of section 28-416; ~~possession of marijuana~~
9 ~~weighing more than one pound under subsection (12) of section 28-416;~~
10 possession of money used or intended to be used to facilitate a violation
11 of subsection (1) of section 28-416 prohibited under subsection (15) ~~(17)~~
12 of section 28-416; any violation of section 28-418; to unlawfully
13 manufacture, distribute, deliver, or possess with intent to distribute or
14 deliver an imitation controlled substance under section 28-445;
15 possession of anhydrous ammonia with the intent to manufacture
16 methamphetamine under section 28-451; and possession of ephedrine,
17 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
18 methamphetamine under section 28-452;

19 (c) Offenses against property which include: Arson in the first
20 degree under section 28-502; arson in the second degree under section
21 28-503; arson in the third degree under section 28-504; burglary under
22 section 28-507; theft by unlawful taking or disposition under section
23 28-511; theft by shoplifting under section 28-511.01; theft by deception
24 under section 28-512; theft by extortion under section 28-513; theft of
25 services under section 28-515; theft by receiving stolen property under
26 section 28-517; criminal mischief under section 28-519; and unlawfully
27 depriving or obtaining property or services using a computer under
28 section 28-1344;

29 (d) Offenses involving fraud which include: Burning to defraud an
30 insurer under section 28-505; forgery in the first degree under section
31 28-602; forgery in the second degree under section 28-603; criminal

1 possession of a forged instrument under section 28-604; criminal
2 possession of written instrument forgery devices under section 28-605;
3 criminal impersonation under section 28-638; identity theft under section
4 28-639; identity fraud under section 28-640; false statement or book
5 entry under section 28-612; tampering with a publicly exhibited contest
6 under section 28-614; issuing a false financial statement for purposes of
7 obtaining a financial transaction device under section 28-619;
8 unauthorized use of a financial transaction device under section 28-620;
9 criminal possession of a financial transaction device under section
10 28-621; unlawful circulation of a financial transaction device in the
11 first degree under section 28-622; unlawful circulation of a financial
12 transaction device in the second degree under section 28-623; criminal
13 possession of a blank financial transaction device under section 28-624;
14 criminal sale of a blank financial transaction device under section
15 28-625; criminal possession of a financial transaction forgery device
16 under section 28-626; unlawful manufacture of a financial transaction
17 device under section 28-627; laundering of sales forms under section
18 28-628; unlawful acquisition of sales form processing services under
19 section 28-629; unlawful factoring of a financial transaction device
20 under section 28-630; and fraudulent insurance acts under section 28-631;
21 (e) Offenses involving governmental operations which include: Abuse
22 of public records under section 28-911; perjury or subornation of perjury
23 under section 28-915; bribery under section 28-917; bribery of a witness
24 under section 28-918; tampering with a witness or informant or jury
25 tampering under section 28-919; bribery of a juror under section 28-920;
26 assault on an officer, an emergency responder, a state correctional
27 employee, a Department of Health and Human Services employee, or a health
28 care professional in the first degree under section 28-929; assault on an
29 officer, an emergency responder, a state correctional employee, a
30 Department of Health and Human Services employee, or a health care
31 professional in the second degree under section 28-930; assault on an

1 officer, an emergency responder, a state correctional employee, a
2 Department of Health and Human Services employee, or a health care
3 professional in the third degree under section 28-931; and assault on an
4 officer, an emergency responder, a state correctional employee, a
5 Department of Health and Human Services employee, or a health care
6 professional using a motor vehicle under section 28-931.01;

7 (f) Offenses involving gambling which include: Promoting gambling in
8 the first degree under section 28-1102; possession of gambling records
9 under section 28-1105; gambling debt collection under section 28-1105.01;
10 and possession of a gambling device under section 28-1107;

11 (g) Offenses relating to firearms, weapons, and explosives which
12 include: Carrying a concealed weapon under section 28-1202;
13 transportation or possession of machine guns, short rifles, or short
14 shotguns under section 28-1203; unlawful possession of a handgun under
15 section 28-1204; unlawful transfer of a firearm to a juvenile under
16 section 28-1204.01; possession of a firearm by a prohibited juvenile
17 offender under section 28-1204.05; using a deadly weapon to commit a
18 felony or possession of a deadly weapon during the commission of a felony
19 under section 28-1205; possession of a deadly weapon by a prohibited
20 person under section 28-1206; possession of a defaced firearm under
21 section 28-1207; defacing a firearm under section 28-1208; unlawful
22 discharge of a firearm under section 28-1212.02; possession, receipt,
23 retention, or disposition of a stolen firearm under section 28-1212.03;
24 unlawful possession of explosive materials in the first degree under
25 section 28-1215; unlawful possession of explosive materials in the second
26 degree under section 28-1216; unlawful sale of explosives under section
27 28-1217; use of explosives without a permit under section 28-1218;
28 obtaining an explosives permit through false representations under
29 section 28-1219; possession of a destructive device under section
30 28-1220; threatening the use of explosives or placing a false bomb under
31 section 28-1221; using explosives to commit a felony under section

1 28-1222; using explosives to damage or destroy property under section
2 28-1223; and using explosives to kill or injure any person under section
3 28-1224;

4 (h) Any violation of the Securities Act of Nebraska pursuant to
5 section 8-1117;

6 (i) Any violation of the Nebraska Revenue Act of 1967 pursuant to
7 section 77-2713;

8 (j) Offenses relating to public health and morals which include:
9 Prostitution under section 28-801; pandering under section 28-802;
10 keeping a place of prostitution under section 28-804; labor trafficking,
11 sex trafficking, labor trafficking of a minor, or sex trafficking of a
12 minor under section 28-831; a violation of section 28-1005; and any act
13 relating to the visual depiction of sexually explicit conduct prohibited
14 in the Child Pornography Prevention Act; and

15 (k) A violation of the Computer Crimes Act;

16 (6) State means the State of Nebraska or any political subdivision
17 or any department, agency, or instrumentality thereof; and

18 (7) Unlawful debt means a debt of at least one thousand five hundred
19 dollars:

20 (a) Incurred or contracted in gambling activity which was in
21 violation of federal law or the law of the state or which is
22 unenforceable under state or federal law in whole or in part as to
23 principal or interest because of the laws relating to usury; or

24 (b) Which was incurred in connection with the business of gambling
25 in violation of federal law or the law of the state or the business of
26 lending money or a thing of value at a rate usurious under state law if
27 the usurious rate is at least twice the enforceable rate.

28 Sec. 193. Section 43-292, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 43-292 The court may terminate all parental rights between the
31 parents or the mother of a juvenile born out of wedlock and such juvenile

1 when the court finds such action to be in the best interests of the
2 juvenile and it appears by the evidence that one or more of the following
3 conditions exist:

4 (1) The parents have abandoned the juvenile for six months or more
5 immediately prior to the filing of the petition;

6 (2) The parents have substantially and continuously or repeatedly
7 neglected and refused to give the juvenile or a sibling of the juvenile
8 necessary parental care and protection;

9 (3) The parents, being financially able, have willfully neglected to
10 provide the juvenile with the necessary subsistence, education, or other
11 care necessary for his or her health, morals, or welfare or have
12 neglected to pay for such subsistence, education, or other care when
13 legal custody of the juvenile is lodged with others and such payment
14 ordered by the court;

15 (4) The parents are unfit by reason of debauchery, habitual use of
16 intoxicating liquor or narcotic drugs, or repeated lewd and lascivious
17 behavior, which conduct is found by the court to be seriously detrimental
18 to the health, morals, or well-being of the juvenile. A person's parental
19 rights shall not be terminated for actions that are lawful under the
20 Marijuana Control Act absent clear, convincing, and articulable evidence
21 that such actions have created an unreasonable danger to the safety of a
22 minor child;

23 (5) The parents are unable to discharge parental responsibilities
24 because of mental illness or mental deficiency and there are reasonable
25 grounds to believe that such condition will continue for a prolonged
26 indeterminate period;

27 (6) Following a determination that the juvenile is one as described
28 in subdivision (3)(a) of section 43-247, reasonable efforts to preserve
29 and reunify the family if required under section 43-283.01, under the
30 direction of the court, have failed to correct the conditions leading to
31 the determination;

1 (7) The juvenile has been in an out-of-home placement for fifteen or
2 more months of the most recent twenty-two months;

3 (8) The parent has inflicted upon the juvenile, by other than
4 accidental means, serious bodily injury;

5 (9) The parent of the juvenile has subjected the juvenile or another
6 minor child to aggravated circumstances, including, but not limited to,
7 abandonment, torture, chronic abuse, or sexual abuse;

8 (10) The parent has (a) committed murder of another child of the
9 parent, (b) committed voluntary manslaughter of another child of the
10 parent, (c) aided or abetted, attempted, conspired, or solicited to
11 commit murder, or aided or abetted voluntary manslaughter of the juvenile
12 or another child of the parent, or (d) committed a felony assault that
13 resulted in serious bodily injury to the juvenile or another minor child
14 of the parent; or

15 (11) One parent has been convicted of felony sexual assault of the
16 other parent under section 28-319.01 or 28-320.01 or a comparable crime
17 in another state.

18 Sec. 194. A person shall not be denied custody, visitation, or
19 parenting time based solely on the fact that such person is engaged in
20 conduct that is lawful under the Marijuana Control Act, unless such
21 conduct creates an unreasonable danger to the child or is otherwise
22 contrary to the best interests of the child.

23 Sec. 195. Section 60-6,211.08, Revised Statutes Cumulative
24 Supplement, 2020, is amended to read:

25 60-6,211.08 (1) For purposes of this section:

26 (a) Alcoholic beverage means (i) beer, ale porter, stout, and other
27 similar fermented beverages, including sake or similar products, of any
28 name or description containing one-half of one percent or more of alcohol
29 by volume, brewed or produced from malt, wholly or in part, or from any
30 substitute therefor, (ii) wine of not less than one-half of one percent
31 of alcohol by volume, or (iii) distilled spirits which is that substance

1 known as ethyl alcohol, ethanol, or spirits of wine in any form,
2 including all dilutions and mixtures thereof from whatever source or by
3 whatever process produced. Alcoholic beverage does not include trace
4 amounts not readily consumable as a beverage;

5 (b) Marijuana has the same meaning as in section 17 of this act;

6 (c) (b) Highway means a road or street including the entire area
7 within the right-of-way;

8 (d) (e) Limousine means a luxury vehicle used to provide prearranged
9 passenger transportation on a dedicated basis at a premium fare that has
10 a seating capacity of at least five and no more than fourteen persons
11 behind the driver with a physical partition separating the driver seat
12 from the passenger compartment. Limousine does not include taxicabs,
13 hotel or airport buses or shuttles, or buses;

14 (e) (d) Open ~~alcoholic beverage~~ container, except as provided in
15 subsection (3) of section 53-123.04 and subdivision (1)(c) of section
16 53-123.11, means any bottle, can, or other receptacle:

17 (i) That contains any amount of alcoholic beverage or marijuana; and

18 (ii)(A) That is open or has a broken seal or (B) the contents of
19 which are partially removed; and

20 (f) (e) Passenger area means the area designed to seat the driver
21 and passengers while the motor vehicle is in operation and any area that
22 is readily accessible to the driver or a passenger while in their seating
23 positions, including any compartments in such area. Passenger area does
24 not include the area behind the last upright seat of such motor vehicle
25 if the area is not normally occupied by the driver or a passenger and the
26 motor vehicle is not equipped with a trunk.

27 (2) Except as otherwise provided in this section, it is unlawful for
28 any person in the passenger area of a motor vehicle to possess an open
29 ~~alcoholic beverage~~ container while the motor vehicle is located in a
30 public parking area or on any highway in this state.

31 (3) Except as provided in section 53-186 or subsection (4) of this

1 section, it is unlawful for any person to consume an alcoholic beverage
2 or marijuana (a) in a public parking area or on any highway in this state
3 or (b) inside a motor vehicle while in a public parking area or on any
4 highway in this state.

5 (4) This section does not apply to possession or consumption of
6 alcoholic beverages by persons who are passengers of, but not drivers of,
7 a limousine or bus being used in a charter or special party service as
8 defined by rules and regulations adopted and promulgated by the Public
9 Service Commission and subject to Chapter 75, article 3. Such passengers
10 may possess open containers of alcoholic beverages ~~beverage containers~~
11 and may consume alcoholic beverages while such limousine or bus is in a
12 public parking area or on any highway in this state if (a) the driver of
13 the limousine or bus is prohibited from consuming alcoholic liquor and
14 (b) alcoholic liquor is not present in any area that is readily
15 accessible to the driver while in the driver's seat, including any
16 compartments in such area.

17 Sec. 196. Section 71-5727, Revised Statutes Cumulative Supplement,
18 2020, is amended to read:

19 71-5727 Smoke or smoking means inhaling, exhaling, burning, or
20 carrying any lighted or heated cigar, cigarette, pipe, hookah, or any
21 other lighted or heated tobacco, marijuana, or plant product intended for
22 inhalation, whether natural or synthetic, in any manner or in any form.
23 The term includes the use of an electronic smoking device or similar
24 device for marijuana which creates an aerosol or vapor, in any manner or
25 in any form.

26 Sec. 197. Section 77-2701.02, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 77-2701.02 Pursuant to section 77-2715.01:(1) ~~Until July 1, 1998,~~
29 ~~the rate of the sales tax levied pursuant to section 77-2703 shall be~~
30 ~~five percent; (2) Commencing July 1, 1998, and until July 1, 1999, the~~
31 ~~rate of the sales tax levied pursuant to section 77-2703 shall be four~~

1 ~~and one-half percent; (3) Commencing July 1, 1999, and until the start of~~
2 ~~the first calendar quarter after July 20, 2002, the rate of the sales tax~~
3 ~~levied pursuant to section 77-2703 shall be five percent; and (4)~~
4 ~~Commencing on the start of the first calendar quarter after July 20,~~
5 ~~2002, the rate of the sales tax levied pursuant to section 77-2703 shall~~
6 ~~be five and one-half percent, except that the rate of the sales tax~~
7 ~~levied on sales of marijuana by marijuana stores to consumers under the~~
8 ~~Marijuana Control Act shall be fifteen percent.~~

9 Sec. 198. Section 77-2701.48, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 77-2701.48 (1) Bundled transaction means the retail sale of two or
12 more products, except real property and services to real property, when
13 (a) the products are otherwise distinct and identifiable and (b) the
14 products are sold for one non-itemized price. Bundled transaction does
15 not include the sale of any products in which the sales price varies, or
16 is negotiable, based on the selection by the purchaser of the products
17 included in the transaction.

18 (2) Distinct and identifiable products do not include:

19 (a) Packaging, such as containers, boxes, sacks, bags, and bottles
20 or other materials such as wrapping, labels, tags, and instruction guides
21 that accompany the retail sale of the products and are incidental or
22 immaterial to the retail sale thereof. Examples of packaging that are
23 incidental or immaterial include grocery sacks, shoeboxes, dry cleaning
24 garment bags, and express delivery envelopes and boxes;

25 (b) A product provided free of charge with the required purchase of
26 another product. A product is provided free of charge if the sales price
27 of the product purchased does not vary depending on the inclusion of the
28 product provided free of charge; and

29 (c) Items included in the definition of sales price pursuant to
30 section 77-2701.35.

31 (3) One non-itemized price does not include a price that is

1 separately identified by product on binding sales or other supporting
2 sales-related documentation made available to the customer in paper or
3 electronic form, including, but not limited to, an invoice, bill of sale,
4 receipt, contract, service agreement, lease agreement, periodic notice of
5 rates and services, rate card, or price list.

6 (4) A transaction that otherwise meets the definition of a bundled
7 transaction is not a bundled transaction if it is (a) the retail sale of
8 tangible personal property and a service where the tangible personal
9 property is essential to the use of the service, and is provided
10 exclusively in connection with the service, and the true object of the
11 transaction is the service, (b) the retail sale of services when one
12 service is provided that is essential to the use or receipt of a second
13 service and the first service is provided exclusively in connection with
14 the second service and the true object of the transaction is the second
15 service, or (c) a transaction that includes taxable products and
16 nontaxable products and the purchase price or sales price of the taxable
17 products is de minimus. De minimus means the seller's purchase price or
18 sales price of the taxable products is ten percent or less of the total
19 purchase price or sales price of the bundled products. Sellers shall use
20 either the purchase price or the sales price of the products to determine
21 if the taxable products are de minimus. Sellers may not use a combination
22 of the purchase price and sales price of the products to determine if the
23 taxable products are de minimus. Sellers shall use the full term of a
24 service contract to determine if the taxable products are de minimus.

25 (5) Bundled transaction does not include the retail sale of exempt
26 tangible personal property and taxable tangible personal property if (a)
27 the transaction includes food and food ingredients, drugs, durable
28 medical equipment, mobility enhancing equipment, over-the-counter drugs,
29 prosthetic devices, or medical supplies as such terms are defined in
30 section 77-2704.09 and (b) the seller's purchase price or sales price of
31 the taxable tangible personal property is fifty percent or less of the

1 total purchase price or sales price of the bundled tangible personal
2 property. Sellers may not use a combination of the purchase price and
3 sales price of the tangible personal property when making the fifty-
4 percent determination for a transaction.

5 Sec. 199. Section 77-2704.09, Reissue Revised Statutes of Nebraska,
6 is amended to read:

7 77-2704.09 (1) Sales and use taxes shall not be imposed on the gross
8 receipts from the sale, lease, or rental of and the storage, use, or
9 other consumption in this state of (a) insulin, (b) mobility enhancing
10 equipment and drugs, not including over-the-counter drugs, when sold for
11 a patient's use under a prescription, and (c) the following when sold for
12 a patient's use under a prescription and which are of the type eligible
13 for coverage under the medical assistance program established pursuant to
14 the Medical Assistance Act: Durable medical equipment; home medical
15 supplies; prosthetic devices; oxygen; and oxygen equipment.

16 (2) For purposes of this section:

17 (a)(i) ~~(a)~~ Drug means a compound, substance, preparation, and
18 component of a compound, substance, or preparation, other than food and
19 food ingredients, dietary supplements, or alcoholic beverages:

20 (A) ~~(i)~~ Recognized in the official United States Pharmacopoeia,
21 official Homeopathic Pharmacopoeia of the United States, or official
22 National Formulary, and any supplement to any of them;

23 (B) ~~(ii)~~ Intended for use in the diagnosis, cure, mitigation,
24 treatment, or prevention of disease; or

25 (C) ~~(iii)~~ Intended to affect the structure or any function of the
26 body; and

27 (ii) Drug does not include marijuana obtained pursuant to the
28 Marijuana Control Act;

29 (b) Durable medical equipment means equipment which can withstand
30 repeated use, is primarily and customarily used to serve a medical
31 purpose, generally is not useful to a person in the absence of illness or

1 injury, is appropriate for use in the home, and is not worn in or on the
2 body. Durable medical equipment includes repair and replacement parts for
3 such equipment;

4 (c) Home medical supplies means supplies primarily and customarily
5 used to serve a medical purpose which are appropriate for use in the home
6 and are generally not useful to a person in the absence of illness or
7 injury;

8 (d) Mobility enhancing equipment means equipment which is primarily
9 and customarily used to provide or increase the ability to move from one
10 place to another, which is not generally used by persons with normal
11 mobility, and which is appropriate for use either in a home or a motor
12 vehicle. Mobility enhancing equipment includes repair and replacement
13 parts for such equipment. Mobility enhancing equipment does not include
14 any motor vehicle or equipment on a motor vehicle normally provided by a
15 motor vehicle manufacturer;

16 (e) Over-the-counter drug means a drug that contains a label that
17 identifies the product as a drug as required by 21 C.F.R. 201.66, as such
18 regulation existed on January 1, 2003. The over-the-counter drug label
19 includes a drug facts panel or a statement of the active ingredients with
20 a list of those ingredients contained in the compound, substance, or
21 preparation;

22 (f) Oxygen equipment means oxygen cylinders, cylinder transport
23 devices including sheaths and carts, cylinder studs and support devices,
24 regulators, flowmeters, tank wrenches, oxygen concentrators, liquid
25 oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing,
26 nasal cannulas, face masks, oxygen humidifiers, and oxygen fittings and
27 accessories;

28 (g) Prescription means an order, formula, or recipe issued in any
29 form of oral, written, electronic, or other means of transmission by a
30 duly licensed practitioner authorized under the Uniform Credentialing
31 Act; and

1 (h) Prosthetic devices means a replacement, corrective, or
2 supportive device worn on or in the body to artificially replace a
3 missing portion of the body, prevent or correct physical deformity or
4 malfunction, or support a weak or deformed portion of the body, and
5 includes any supplies used with such device and repair and replacement
6 parts.

7 Sec. 200. Section 77-27,132, Reissue Revised Statutes of Nebraska,
8 is amended to read:

9 77-27,132 (1) There is hereby created a fund to be designated the
10 Revenue Distribution Fund which shall be set apart and maintained by the
11 Tax Commissioner. Revenue not required to be credited to the General Fund
12 or any other specified fund may be credited to the Revenue Distribution
13 Fund. Credits and refunds of such revenue shall be paid from the Revenue
14 Distribution Fund. The balance of the amount credited, after credits and
15 refunds, shall be allocated as provided by the statutes creating such
16 revenue.

17 (2) The Tax Commissioner shall pay to a depository bank designated
18 by the State Treasurer all amounts collected under the Nebraska Revenue
19 Act of 1967. The Tax Commissioner shall present to the State Treasurer
20 bank receipts showing amounts so deposited in the bank, and of the
21 amounts so deposited the State Treasurer shall:

22 (a) For transactions occurring on or after October 1, 2014, and
23 before October 1, 2022, credit to the Game and Parks Commission Capital
24 Maintenance Fund all of the proceeds of the sales and use taxes imposed
25 pursuant to section 77-2703 on the sale or lease of motorboats as defined
26 in section 37-1204, personal watercraft as defined in section 37-1204.01,
27 all-terrain vehicles as defined in section 60-103, and utility-type
28 vehicles as defined in section 60-135.01;

29 (b) Credit to the Highway Trust Fund all of the proceeds of the
30 sales and use taxes derived from the sale or lease for periods of more
31 than thirty-one days of motor vehicles, trailers, and semitrailers,

1 except that the proceeds equal to any sales tax rate provided for in
2 section 77-2701.02 that is in excess of five percent derived from the
3 sale or lease for periods of more than thirty-one days of motor vehicles,
4 trailers, and semitrailers shall be credited to the Highway Allocation
5 Fund;

6 (c) For transactions occurring on or after July 1, 2013, and before
7 July 1, 2033, of the proceeds of the sales and use taxes derived from
8 transactions other than those listed in subdivisions (2)(a), ~~and (b),~~ and
9 (e) of this section from a sales tax rate of one-quarter of one percent,
10 credit monthly eighty-five percent to the State Highway Capital
11 Improvement Fund and fifteen percent to the Highway Allocation Fund; ~~and~~

12 (d) Of the proceeds of the sales and use taxes derived from
13 transactions other than those listed in subdivisions (2)(a), ~~and (b),~~ and
14 (e) of this section, credit to the Property Tax Credit Cash Fund the
15 amount certified under section 77-27,237, if any such certification is
16 made; ~~and -~~

17 (e) Credit the proceeds of the sales and use taxes imposed pursuant
18 to section 77-2703 on the sale of marijuana by marijuana stores to
19 consumers under the Marijuana Control Act as follows:

20 (i) Ten percent shall be distributed to the Department of Health and
21 Human Services for drug education and treatment programs;

22 (ii) Ten percent shall be transferred to the Affordable Housing
23 Trust Fund; and

24 (iii) Eighty percent shall be transferred to the Property Tax Credit
25 Cash Fund.

26 The balance of all amounts collected under the Nebraska Revenue Act
27 of 1967 shall be credited to the General Fund.

28 Sec. 201. Section 77-4301, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 77-4301 For purposes of sections 77-4301 to 77-4316:

31 (1) Controlled substance means ~~shall mean~~ any drug or substance,

1 including an imitation controlled substance, that is held, possessed,
2 transported, transferred, sold, or offered to be sold in violation of
3 Nebraska law. Controlled substance ~~does shall~~ not include marijuana;

4 (2) Dealer ~~means shall mean~~ a person who, in violation of Nebraska
5 law, manufactures, produces, ships, transports, or imports into Nebraska
6 or in any manner acquires or possesses ~~six or more ounces of marijuana,~~
7 seven or more grams of any controlled substance which is sold by weight,
8 or ten or more dosage units of any controlled substance which is not sold
9 by weight;

10 (3) Imitation controlled substance ~~has shall have~~ the same meaning
11 as ~~provided~~ in section 28-401; and

12 (4) Marijuana ~~has shall have~~ the same meaning as ~~provided~~
13 17 of this act 28-401.

14 Sec. 202. Section 77-4302, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 77-4302 No dealer may possess ~~marijuana or~~ controlled substances
17 upon which a tax is imposed by section 77-4303 unless the tax has been
18 paid on the ~~marijuana or~~ controlled substance as evidenced by an official
19 stamp, label, or other indicium.

20 Sec. 203. Section 77-4303, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 77-4303 (1) A tax is hereby imposed on ~~marijuana and~~ controlled
23 substances at the following rates:

24 ~~(a) On each ounce of marijuana or each portion of an ounce, one~~
25 ~~hundred dollars;~~

26 (a) ~~(b)~~ On each gram or portion of a gram of a controlled substance
27 that is customarily sold by weight or volume, one hundred fifty dollars;
28 or

29 (b) ~~(c)~~ On each fifty dosage units or portion thereof of a
30 controlled substance that is not customarily sold by weight, five hundred
31 dollars.

1 (2) For purposes of calculating the tax under this section,
2 ~~marijuana~~ or any controlled substance that is customarily sold by weight
3 or volume shall be measured by the weight of the substance in the
4 dealer's possession. The weight shall be the actual weight, if known, or
5 the estimated weight as determined by the Nebraska State Patrol or other
6 law enforcement agency. Such determination shall be presumed to be the
7 weight of such ~~marijuana~~ or controlled substances for purposes of
8 sections 77-4301 to 77-4316.

9 (3) The tax shall not be imposed upon a person registered or
10 otherwise lawfully in possession of ~~marijuana~~ or a controlled substance
11 pursuant to Chapter 28, article 4.

12 Sec. 204. Section 77-4304, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 77-4304 (1) Subject to the rules and regulations of the Tax
15 Commissioner, official stamps, labels, or other indicia to be affixed to
16 all ~~marijuana~~ and controlled substances shall be purchased from the
17 Department of Revenue. The purchaser shall pay one hundred percent of
18 face value for each official stamp, label, or other indicium purchased
19 and shall not be required to give his or her name, address, social
20 security number, or other identifying information.

21 (2) The Tax Commissioner shall adopt a uniform system of providing,
22 affixing, and displaying an official stamp, label, or other indicium for
23 ~~marijuana~~ and controlled substances on which a tax is imposed. Official
24 stamps, labels, or other indicia shall expire six months from the date of
25 issuance.

26 Sec. 205. Section 77-4305, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 77-4305 The tax imposed upon ~~marijuana~~ and controlled substances by
29 section 77-4303 shall be due and payable immediately upon acquisition or
30 possession of ~~marijuana~~ and controlled substances in this state by a
31 dealer.

1 Sec. 206. Section 77-4306, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-4306 If a dealer acquires or ships, transports, or imports into
4 this state ~~marijuana~~ or a controlled substance and if the official stamp,
5 label, or indicium evidencing the payment of the tax has not already been
6 affixed, the dealer shall have it permanently affixed on the ~~marijuana~~ or
7 controlled substance immediately upon acquisition or possession of the
8 ~~marijuana~~ or controlled substance. Each official stamp, label, or other
9 indicium may be used only once.

10 Sec. 207. Section 77-4309, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 77-4309 Any dealer violating sections 77-4301 to 77-4316 shall be
13 subject to a penalty of one hundred percent of the tax in addition to the
14 tax imposed by section 77-4303. The penalty shall be collected as part of
15 the tax.

16 A dealer distributing or possessing ~~marijuana~~ or a controlled
17 substance without affixing the official stamp, label, or other indicium
18 shall be guilty of a Class IV felony. Notwithstanding any other provision
19 of the criminal laws of this state, an indictment may be found and filed
20 or an information or complaint filed upon any criminal offense specified
21 in this section in the proper court within six years after the commission
22 of such offense.

23 Sec. 208. Section 77-4310.01, Reissue Revised Statutes of Nebraska,
24 is amended to read:

25 77-4310.01 Proceeds of the tax imposed by section 77-4303 shall be
26 remitted to the State Treasurer for credit as follows:

27 (1) Five percent of such proceeds shall be credited to the ~~Marijuana~~
28 ~~and~~ Controlled Substances Tax Administration Cash Fund; and

29 (2) Of the remaining proceeds:

30 (a) Fifty percent shall be remitted to the respective counties from
31 which the proceeds originated for credit to the County Drug Law

1 Enforcement and Education Fund of each such county. Money remitted to a
2 county pursuant to this subdivision shall be remitted to the county
3 treasurer of such county for credit to such fund. For purposes of this
4 subdivision, county from which the proceeds originated shall mean: (i) If
5 the proceeds result from seizure under the Uniform State Tax Lien
6 Registration and Enforcement Act of property located in a county other
7 than the county in which the dealer resides, the county in which the
8 seizure was made; and (ii) in all other cases, the county in which the
9 dealer resides; and

10 (b) All remaining funds, including those which did not originate in
11 a county, shall be credited to the Nebraska State Patrol Drug Control and
12 Education Cash Fund.

13 Sec. 209. Section 77-4310.03, Reissue Revised Statutes of Nebraska,
14 is amended to read:

15 77-4310.03 There is hereby created the ~~Marijuana~~ and Controlled
16 Substances Tax Administration Cash Fund. Money in the fund shall be used
17 by the Tax Commissioner for the purposes of administering, collecting,
18 and enforcing the tax imposed by section 77-4303, except that transfers
19 may be made from the fund to the General Fund at the direction of the
20 Legislature. Any money in the ~~Marijuana~~ and Controlled Substances Tax
21 Administration Cash Fund available for investment shall be invested by
22 the state investment officer pursuant to the Nebraska Capital Expansion
23 Act and the Nebraska State Funds Investment Act.

24 Sec. 210. Section 81-2,239, Revised Statutes Cumulative Supplement,
25 2020, is amended to read:

26 81-2,239 Sections 81-2,239 to 81-2,292 and section 212 of this act
27 and the provisions of the Food Code and the Current Good Manufacturing
28 Practice In Manufacturing, Packing, or Holding Human Food adopted by
29 reference in sections 81-2,257.01 and 81-2,259, shall be known and may be
30 cited as the Nebraska Pure Food Act.

31 Sec. 211. Section 81-2,263, Revised Statutes Cumulative Supplement,

1 2020, is amended to read:

2 81-2,263 If there is an inconsistency between sections 81-2,239 to
3 81-2,292 and section 212 of this act and any code adopted by reference,
4 the requirements of the sections shall control.

5 Sec. 212. Edible marijuana products products sold under the
6 Marijuana Control Act are subject to the Nebraska Pure Food Act to the
7 same extent as other items of food.

8 Sec. 213. If any section in this act or any part of any section is
9 declared invalid or unconstitutional, the declaration shall not affect
10 the validity or constitutionality of the remaining portions.

11 Sec. 214. Original sections 28-439, 43-292, 77-2701.02, 77-2701.48,
12 77-2704.09, 77-27,132, 77-4301, 77-4302, 77-4303, 77-4304, 77-4305,
13 77-4306, 77-4309, 77-4310.01, and 77-4310.03, Reissue Revised Statutes of
14 Nebraska, and sections 28-401, 28-405, 28-416, 28-476, 28-1354,
15 60-6,211.08, 71-5727, 81-2,239, and 81-2,263, Revised Statutes Cumulative
16 Supplement, 2020, are repealed.

17 Sec. 215. The following sections are outright repealed: Sections
18 28-463, 28-464, 28-465, 28-466, 28-467, 28-468, and 28-469, Reissue
19 Revised Statutes of Nebraska.