

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 889

Introduced by Halloran, 33.

Read first time January 07, 2022

Committee: Agriculture

1 A BILL FOR AN ACT relating to the Nebraska Hemp Farming Act; to amend
2 sections 2-503, 2-504, 2-505, 2-506, 2-508, 2-509, 2-510, 2-511,
3 2-514, 2-515, and 2-517, Revised Statutes Cumulative Supplement,
4 2020, and section 28-401, Revised Statutes Supplement, 2021; to
5 change and update federal references; to define a term; to eliminate
6 obsolete provisions; to change provisions relating to the state plan
7 for regulation of hemp and rules and regulations, fees, duties,
8 violations, and testing and transporting of hemp; to provide for
9 remediation of certain hemp; to change a meeting requirement for the
10 Nebraska Hemp Commission; to harmonize provisions; to repeal the
11 original sections; to outright repeal section 2-5701, Revised
12 Statutes Cumulative Supplement, 2021; and to declare an emergency.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-503, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

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

4 (1) Acceptable hemp THC level has the same meaning as in 7 C.F.R.
5 part 990 ~~990-1~~, as such part ~~section~~ existed on January 1, 2022 ~~2020~~;

6 (2) Agriculture Improvement Act of 2018 means section 10113 of the
7 federal Agriculture Improvement Act of 2018, Public Law 115-334, and any
8 regulations adopted and promulgated under such section, as such section,
9 act, and regulations existed on January 1, 2022 ~~2020~~;

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

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

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

17 (6) Commission means the Nebraska Hemp Commission;

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

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

24 (9) Department means the Department of Agriculture;

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

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

29 (12) Handle or handling means possessing or storing hemp plants or
30 hemp plant parts prior to cultivation, in the process of cultivation, or
31 after being harvested or dried but before processing. Handle or handling

1 also includes possessing or storing such hemp plants or hemp plant parts
2 in a vehicle for any period of time other than during its actual
3 transport from the premises of a person licensed to cultivate or process
4 hemp to the premises of another licensee. Handle or handling does not
5 include possessing, storing, or transporting finished hemp products or
6 hemp seeds;

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

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

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

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

25 (17) Measurement of uncertainty has the same meaning as in 7 C.F.R.
26 part 990 ~~990-1~~, as such part section existed on January 1, 2022 ~~2020~~;

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

30 (19) Postsecondary institution means a postsecondary institution as
31 defined in section 85-2403 that also meets the requirements of 20 U.S.C.

1 1001, as such section existed on January 1, 2019;

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

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

5 (22) Remediation has the same meaning as in 7 C.F.R. part 990, as
6 such part existed on January 1, 2022;

7 (23) {22} Site means an area defined by the same legal description
8 in a field, greenhouse, or other outdoor area or indoor structure, or for
9 a mobile processor, such processor's primary place of business;

10 (24) {23} THC means tetrahydrocannabinol; and

11 (25) {24} USDA-licensed hemp producer means a person licensed by the
12 United States Department of Agriculture to produce hemp as provided in 7
13 C.F.R. part 990, subpart C, as such regulations existed on January 1,
14 2022 2020.

15 Sec. 2. Section 2-504, Revised Statutes Cumulative Supplement, 2020,
16 is amended to read:

17 2-504 (1) Subject to the Nebraska Hemp Farming Act, it shall be
18 lawful:

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

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

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

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

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

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

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

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

13 (e) A procedure for conducting, at a minimum, annual inspections of
14 a random sample of hemp cultivators and processor-handlers to verify that
15 hemp is not cultivated, processed, or handled in violation of the
16 Nebraska Hemp Farming Act or the state plan as described in section
17 2-516. The department may, at its discretion, conduct other inspections
18 of a cultivator's or processor-handler's operation, including all sites
19 registered with the department;

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

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

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

28 (i) Identify the transporting person;

29 (ii) List a traceable reference, in accordance with the federal
30 Agriculture Improvement Act of 2018, to the lot in which the hemp was
31 grown, matching the lot listed on the test results or other documentation

1 required by section 2-515 or section 28-476; and

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

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

8 (j) Recordkeeping requirements and procedures, including planting,
9 harvest, and destruction reports and deadlines for the submission of such
10 reports; and

11 (k) Any other standard, practice, or procedure required by the
12 Nebraska Hemp Farming Act or the federal Agriculture Improvement Act of
13 2018.

14 Sec. 3. Section 2-505, Revised Statutes Cumulative Supplement, 2020,
15 is amended to read:

16 2-505 (1) Hemp may only be cultivated by a USDA-licensed hemp
17 producer or a person ~~meeting the requirements of section 2-5701 or in~~
18 compliance with this section.

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

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

25 (b) If the applicant is an entity and not an individual, (i) the
26 name of the applicant, mailing address, telephone number, and valid email
27 address, (ii) the full name of each officer, director, partner, member,
28 or owner owning in excess of ten percent of equity or stock in such
29 entity, (iii) the full name of each key participant as defined in 7
30 C.F.R. part 990, as such section existed on January 1, 2022 ~~990-1~~, and

31 (iv) the birthdate, title, mailing address, telephone number, and valid

1 email address of each such person or key participant;

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

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

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

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

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

27 (5) After the department receives approval by the United States
28 Secretary of Agriculture for the state plan described in section 2-516,
29 an initial cultivator license application may be submitted at any time,
30 except that the department may set a cutoff date for applications ahead
31 of the growing season. An initial cultivator license issued by the

1 department expires on December 31 in the calendar year for which it was
2 issued.

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

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

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

21 Sec. 4. Section 2-506, Revised Statutes Cumulative Supplement, 2020,
22 is amended to read:

23 2-506 (1) Except for handling by an approved testing facility, a
24 USDA-licensed hemp producer, or a cultivator licensed under section
25 2-505, a person shall not process, handle, or broker hemp plants or plant
26 parts in this state unless the person ~~meets the requirements of section~~
27 ~~2-5701 or~~ is in compliance with this section and licensed as a processor-
28 handler or broker under the Nebraska Hemp Farming Act.

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

1 following:

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

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

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

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

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

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

30 (5) An initial processor-handler or broker license application may
31 be submitted at any time. An initial processor-handler or broker license

1 issued by the department expires on December 31 in the calendar year for
2 which it was issued.

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

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

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

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

24 Sec. 5. Section 2-508, Revised Statutes Cumulative Supplement, 2020,
25 is amended to read:

26 2-508 (1) License fees under the Nebraska Hemp Farming Act are due
27 with the license application on or before December 31 and shall be in the
28 amount listed in column A of subsection (2) of this section. The fees ~~due~~
29 ~~on or before December 31, 2019, and by each December 31 thereafter~~ shall
30 be set by the director on or before July 1 of each year. The director may
31 raise or lower such fees each year to meet the criteria in this

1 subsection, but the fee shall not be greater than the amount in column B
2 of subsection (2) of this section. The same percentage shall be applied
3 to each category for all fee increases or decreases. The director shall
4 use the fees in column A of subsection (2) of this section as a base for
5 future fee increases or decreases. The director shall determine the fees
6 based on estimated annual revenue and fiscal year-end cash fund balances
7 as follows:

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

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

14 (2) Fees.

15	Fees	A	B
16	Cultivator, processor-handler, and		
17	broker license application fee	\$100	\$150
18	Cultivator site registration fee	\$400 per site	\$600 per site
19	Processor-handler site		
20	registration fee	\$800 per site	\$1,200 per site
21	Site modification fee	\$50	\$75

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

1 ~~State Treasurer for credit to the Nebraska Hemp Program Fund.~~

2 Sec. 6. Section 2-509, Revised Statutes Cumulative Supplement, 2020,
3 is amended to read:

4 2-509 The Nebraska Hemp Program Fund is established. The fund shall
5 be administered by the department for the purpose of covering the costs
6 of the department in administering sections 2-504 to 2-516 ~~and 2-5701~~.
7 The fund may receive appropriations by the Legislature, gifts, grants,
8 federal funds, and any other funds both public and private. All fees
9 collected by the department under section ~~sections~~ 2-508 ~~and 2-5701~~ shall
10 be remitted to the State Treasurer for credit to the fund. Transfers from
11 the Nebraska Hemp Program Fund to the Noxious Weed Cash Fund may be made
12 as provided in section 2-958. Transfers from the Nebraska Hemp Program
13 Fund to the Fertilizers and Soil Conditioners Administrative Fund may be
14 made as provided in section 81-2,162.27. Any money in the fund available
15 for investment shall be invested by the state investment officer pursuant
16 to the Nebraska Capital Expansion Act and the Nebraska State Funds
17 Investment Act.

18 Sec. 7. Section 2-510, Revised Statutes Cumulative Supplement, 2020,
19 is amended to read:

20 2-510 (1) A cultivator, processor-handler, or broker shall consent
21 to and comply with ~~consents to~~ all of the following:

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

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

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

3 (d) Destruction, as soon as possible but no later than thirty days
4 after receiving notification by the department, of any of the following:

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

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

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

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

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

23 Sec. 8. Section 2-511, Revised Statutes Cumulative Supplement, 2020,
24 is amended to read:

25 2-511 (1) For purposes of this section, a negligent violation shall
26 include, but not be limited to:

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

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

31 (c) Production of cannabis with a ~~delta-9 tetrahydrocannabinol~~

1 ~~concentration~~ exceeding the acceptable hemp THC level. A cultivator does
2 not commit a negligent violation under this subsection if the cultivator
3 has made reasonable efforts to grow hemp and the cannabis does not have a
4 delta-9 tetrahydrocannabinol concentration of more than 1.0 ~~0.5~~ percent
5 on a dry weight basis.

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

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

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

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

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

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

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

31 (a) A reasonable date by which the licensee shall correct the

1 negligent violation;

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

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

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

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

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

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

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

20 Sec. 9. Section 2-514, Revised Statutes Cumulative Supplement, 2020,
21 is amended to read:

22 2-514 (1) In accordance with the state plan described in section
23 2-516 and the Nebraska Hemp Farming Act, and at At the licensee's
24 expense, hemp from each lot grown at each cultivation site registered
25 with the department shall be sampled for compliance with the acceptable
26 hemp THC level prior to harvest and tested by an approved testing
27 facility. When requesting a date for collecting the pre-harvest sample,
28 the licensee shall provide at least seven days' notice to the department.
29 The licensee may be required to delay harvest until such sample is taken.
30 The licensee shall be responsible for any damages related to the failure
31 of the licensee to provide proper notice as required by this subsection.

1 After such lot sample is taken, the lot represented by the sample shall
2 be harvested within thirty ~~fifteen~~ days. The results of such tests shall
3 be certified directly to the department by the approved testing facility
4 prior to harvest. The test results shall identify the lot for the hemp
5 represented by the sample.

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

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

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

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

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

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

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

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

30 (10) The approved testing facility shall provide a report giving the
31 results of the potency analysis of each sample. Measurement of

1 uncertainty shall be estimated and reported with test results.
2 Laboratories shall use appropriate validated methods and procedures for
3 all testing activities and evaluation of measurement of uncertainty. For
4 tests directed by the department, a copy of the report shall be provided
5 to the licensee ~~and a copy of the report shall be issued to the~~
6 ~~department~~. The report shall be provided before the harvest date, if
7 applicable.

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

12 Sec. 10. Section 2-515, Revised Statutes Cumulative Supplement,
13 2020, is amended to read:

14 2-515 (1) Except as provided in subsection (4) of this section, any
15 cultivator transporting hemp cultivated under the Nebraska Hemp Farming
16 Act shall carry with the hemp being transported a copy of the cultivator
17 license under which it was cultivated and a copy of the test results
18 pertaining to each lot of hemp being transported.

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

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

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

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

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

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

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

17 Sec. 11. Section 2-517, Revised Statutes Cumulative Supplement,
18 2020, is amended to read:

19 2-517 (1) The Nebraska Hemp Commission is created. The commission
20 shall consist of the following members:

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

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

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

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

28 (ii) A manufacturer of hemp products.

29 (2) Members appointed pursuant to subdivisions (1)(b) and (c) of
30 this section shall serve a term of four years and may be reappointed. A
31 majority of the members of the commission shall constitute a quorum. The

1 commission shall annually elect one member from among the remaining
2 members to serve as chairperson. The commission shall meet once annually
3 ~~quarterly~~ and may meet more often upon the call of the chairperson or by
4 request of a majority of the members. The commission shall be appointed
5 no later than sixty days after July 1, 2021, and conduct its first
6 meeting no later than thirty days after appointment of the commission.
7 The members of the commission shall serve without pay but shall receive
8 expenses incurred while on official business as provided in sections
9 81-1174 to 81-1177.

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

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

16 (b) To prepare and approve a budget;

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

19 (d) To contract for services and authorize the expenditure of funds
20 which are necessary for the proper operation of this section and section
21 2-519;

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

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

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

31 (4) The commission shall periodically report to the Governor and to

1 the Legislature on hemp policies and practices that will result in the
2 proper and legal growth, management, marketing, and use of the state's
3 hemp industry. Any report submitted to the Legislature shall be submitted
4 electronically. Such policies and practices shall, at a minimum, address
5 the following:

6 (a) Federal laws and regulatory constraints;

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

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

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

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

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

14 (g) Law enforcement concerns;

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

17 (i) Technical support and education about hemp.

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

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

30 Sec. 12. Section 28-401, Revised Statutes Supplement, 2021, is
31 amended to read:

1 28-401 As used in the Uniform Controlled Substances Act, unless the
2 context otherwise requires:

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

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

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

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

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

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

28 (7) Division of Drug Control means the personnel of the Nebraska
29 State Patrol who are assigned to enforce the Uniform Controlled
30 Substances Act;

31 (8) Dispense means to deliver a controlled substance to an ultimate

1 user or a research subject pursuant to a medical order issued by a
2 practitioner authorized to prescribe, including the packaging, labeling,
3 or compounding necessary to prepare the controlled substance for such
4 delivery;

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

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

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

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

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

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

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

31 (c) Marijuana does not include hemp.

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

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

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

26 (16) Narcotic drug means any of the following, whether produced
27 directly or indirectly by extraction from substances of vegetable origin,
28 independently by means of chemical synthesis, or by a combination of
29 extraction and chemical synthesis: (a) Opium, opium poppy and poppy
30 straw, coca leaves, and opiates; (b) a compound, manufacture, salt,
31 derivative, or preparation of opium, coca leaves, or opiates; or (c) a

1 substance and any compound, manufacture, salt, derivative, or preparation
2 thereof which is chemically equivalent to or identical with any of the
3 substances referred to in subdivisions (a) and (b) of this subdivision,
4 except that the words narcotic drug as used in the Uniform Controlled
5 Substances Act does not include decocainized coca leaves or extracts of
6 coca leaves, which extracts do not contain cocaine or ecgonine, or
7 isoquinoline alkaloids of opium;

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

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

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

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

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

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

31 (23) Immediate precursor means a substance which is the principal

1 compound commonly used or produced primarily for use and which is an
2 immediate chemical intermediary used or likely to be used in the
3 manufacture of a controlled substance, the control of which is necessary
4 to prevent, curtail, or limit such manufacture;

5 (24) State means the State of Nebraska;

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

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

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

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

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

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

30 (29) Exceptionally hazardous drug means (a) a narcotic drug, (b)
31 thiophene analog of phencyclidine, (c) phencyclidine, (d) amobarbital,

1 (e) secobarbital, (f) pentobarbital, (g) amphetamine, or (h)
2 methamphetamine;

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

12 (31)(a) Controlled substance analogue means a substance (i) the
13 chemical structure of which is substantially similar to the chemical
14 structure of a Schedule I or Schedule II controlled substance as provided
15 in section 28-405 or (ii) which has a stimulant, depressant, analgesic,
16 or hallucinogenic effect on the central nervous system that is
17 substantially similar to or greater than the stimulant, depressant,
18 analgesic, or hallucinogenic effect on the central nervous system of a
19 Schedule I or Schedule II controlled substance as provided in section
20 28-405. A controlled substance analogue shall, to the extent intended for
21 human consumption, be treated as a controlled substance under Schedule I
22 of section 28-405 for purposes of the Uniform Controlled Substances Act;
23 and

24 (b) Controlled substance analogue does not include (i) a controlled
25 substance, (ii) any substance generally recognized as safe and effective
26 within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
27 301 et seq., as such act existed on January 1, 2014, (iii) any substance
28 for which there is an approved new drug application, or (iv) with respect
29 to a particular person, any substance if an exemption is in effect for
30 investigational use for that person, under section 505 of the Federal
31 Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on

1 January 1, 2014, to the extent conduct with respect to such substance is
2 pursuant to such exemption;

3 (32) Anabolic steroid means any drug or hormonal substance,
4 chemically and pharmacologically related to testosterone (other than
5 estrogens, progestins, and corticosteroids), that promotes muscle growth
6 and includes any controlled substance in Schedule III(d) of section
7 28-405. Anabolic steroid does not include any anabolic steroid which is
8 expressly intended for administration through implants to cattle or other
9 nonhuman species and has been approved by the Secretary of Health and
10 Human Services for such administration, but if any person prescribes,
11 dispenses, or distributes such a steroid for human use, such person shall
12 be considered to have prescribed, dispensed, or distributed an anabolic
13 steroid within the meaning of this subdivision;

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

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

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

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

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

30 (38) Signature means the name, word, or mark of a person written in
31 his or her own hand with the intent to authenticate a writing or other

1 form of communication or a digital signature which complies with section
2 86-611 or an electronic signature;

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

7 (40) Electronic signature has the definition found in section
8 86-621;

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

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

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

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

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

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

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

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

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

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

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

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

30 (h) The product or substance contains a chemical or chemical
31 compound that does not have a legitimate relationship to the use or

1 purpose claimed by the seller, distributor, packer, or manufacturer of
2 the product or substance or indicated by the product name, appearing on
3 the product's packaging or label or depicted in advertisement of the
4 product or substance.

5 Sec. 13. Original sections 2-503, 2-504, 2-505, 2-506, 2-508,
6 2-509, 2-510, 2-511, 2-514, 2-515, and 2-517, Revised Statutes Cumulative
7 Supplement, 2020, and section 28-401, Revised Statutes Supplement, 2021,
8 are repealed.

9 Sec. 14. The following section is outright repealed: Section
10 2-5701, Revised Statutes Cumulative Supplement, 2020.

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