

## LEGISLATIVE BILL 1152

Approved by the Governor August 07, 2020

Introduced by Halloran, 33; Brandt, 32; Wayne, 13.

A BILL FOR AN ACT relating to hemp; to amend section 28-401.01, Revised Statutes Cumulative Supplement, 2018, and sections 2-503, 2-504, 2-505, 2-506, 2-507, 2-510, 2-511, 2-512, 2-514, 2-515, 2-516, 2-517, 2-5701, and 28-101, Revised Statutes Supplement, 2019; to change the Nebraska Hemp Farming Act as prescribed; to change provisions relating to the cultivation of industrial hemp; to provide a termination date; to provide requirements for the transportation of hemp; to provide a penalty; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~recognized as produced in Nebraska;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Identify the transporting person;

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

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

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

(j) Recordkeeping requirements and procedures; and

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

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

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

(2) Before a person may be licensed to cultivate hemp under the Nebraska Hemp Farming Act, such person shall submit an application on a form prescribed

by the department that includes, but is not limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

to section 2-508.

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

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

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

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

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

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

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

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

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

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

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

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

(e) The applicant has not been deemed ineligible:

(i) At any time under this section;

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

(iii) In the ten years preceding the date of application under section 2-512; or

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

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

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

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

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

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

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

application and registration fees;

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

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

(d) Destruction of any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Notify the United States Attorney General;
- (b) Notify the Attorney General; and
- (c) Notify the county attorney for the county in which the violation occurred.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3)(a) A licensee shall maintain a record of shipments of hemp shipped from or received by the licensee. Such record shall, for each shipment of hemp, indicate the date of shipment, identify the point of origin and destination,

identify the name of the person sending and receiving the shipment, and include the vehicle identification number of the vehicle transporting the hemp. Each shipment of hemp shall be entered on the record of shipments kept by the licensee by the close of the business day the shipment is shipped from or received by the licensee.

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

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

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

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

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

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

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

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

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

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

~~(A) For hemp originating in this state, the requirements of section 10113 of the federal Agriculture Improvement Act of 2018, Public Law 115-334, as such section existed on January 1, 2019, and the Nebraska Hemp Farming Act and any rules and regulations adopted and promulgated thereunder; or~~

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

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

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

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

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

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

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

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

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

(a) A practice to maintain relevant information regarding land on which

hemp is cultivated, handled, or processed in Nebraska, including a legal description of the land, for a period of not less than three calendar years;

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

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

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

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

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

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

(2) If the United States Secretary of Agriculture disapproves the plan, the director, in consultation with the Governor and the Attorney General, shall submit an amended state plan to the secretary within ninety days after such disapproval.

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

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

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

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

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

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

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

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

(ii) A manufacturer of hemp products.

(2) Members appointed pursuant to subdivisions (1)(b) and (c) of this section shall serve a term of four years and may be reappointed. A majority of the members of the commission shall constitute a quorum. The commission shall annually elect one member from among the remaining members to serve as chairperson. The commission shall meet quarterly and may meet more often upon the call of the chairperson or by request of a majority of the members. The commission shall be appointed no later than sixty days after the operative date of this section and conduct its first meeting no later than thirty days after appointment of the commission ~~September 1, 2019~~. The members of the commission shall serve without pay but shall receive expenses incurred while on official business as provided in sections 81-1174 to 81-1177.

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

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

(b) To prepare and approve a budget;

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

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

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

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

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

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

(a) Federal laws and regulatory constraints;

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

(c) Nebraska businesses that may potentially utilize hemp;

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

(e) The potential for globally marketing Nebraska hemp;

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

(g) Law enforcement concerns;

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

(i) Technical support and education about hemp.



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

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

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

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

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

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

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

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

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

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

(4) For purposes of this section:

(a) Agricultural pilot program means a pilot program to study the cultivation or marketing of industrial hemp;

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

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

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

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

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

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

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

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

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

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

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

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

(i) Produced in compliance with:

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

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

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

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

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

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

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

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

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

(6) For purposes of this section:

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

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

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

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

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

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

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

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