An Act

ENROLLED SENATE
BILL NO. 868

By: Paxton and Dahm of the Senate

and

Echols, Patzkowsky and Fetgatter of the House

An Act relating to industrial hemp; amending 2 O.S. 2011, Section 2-4, as last amended by Section 1, Chapter 199, O.S.L. 2018 (2 O.S. Supp. 2018, Section 2-4), which relates to the powers of the State Board of Agriculture; authorizing the Board to submit and prepare plans for approval of the Oklahoma Industrial Hemp Program; amending Sections 1, 2, 3, 4, 6, 7, 8 and 10, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Sections 3-401, 3-402, 3-403, 3-404, 3-406, 3-407, 3-408 and 3-410), which relate to the Oklahoma Industrial Hemp Agricultural Pilot Program; modifying the name of act; modifying, deleting and creating definitions; requiring license for the handling or processing of industrial hemp; clarifying statutory language; removing certified seed requirement; expanding qualified applicants; requiring licensee to maintain certain records; prohibiting the granting of licenses to certain individuals; requiring the Department of Agriculture, Food, and Forestry to promulgate rules to facilitate transportation; striking requirement of the Department to establish a certified seed program; removing certain requirements in harvest report; modifying frequency of inspections; requiring the Department to promulgate rules for inspection and sampling procedures and disposal methods; providing that violations of the program are not subject to criminal enforcement; amending 63 O.S. 2011, Section 2-101, as last amended

by Section 34 of Enrolled Senate Bill No. 1041 of the 1st Session of the 57th Oklahoma Legislature, which relates to the Uniform Controlled Dangerous Substances Act; modifying definition; prohibiting the production of cannabidiol from federally illegal sources; repealing Sections 5 and 9, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Sections 3-405 and 3-409), which relate to the Oklahoma Industrial Hemp Agricultural Pilot Program; authorizing the Department to promulgate emergency rules; providing for codification; providing for noncodification; and declaring an emergency.

SUBJECT: Industrial hemp

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 2011, Section 2-4, as last amended by Section 1, Chapter 199, O.S.L. 2018 (2 O.S. Supp. 2018, Section 2-4), is amended to read as follows:

Section 2-4. A. The State Board of Agriculture shall have the power to:

1. Adopt and prescribe the use of a seal, which shall be in the custody of the Secretary of the Board;

2. Promulgate rules necessary, expedient, or appropriate to the performance, enforcement, or carrying out of any of the purposes, objectives, or provisions of the Oklahoma Agricultural Code;

3. Initiate and prosecute administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code;

4. Appoint authorized agents to make inspections or investigations and to perform other services for the Board or any division of the Oklahoma Department of Agriculture, Food, and Forestry;

5. Consolidate any of the divisions established by the Oklahoma Agricultural Code, transfer any of the functions or activities to another division, place additional functions or activities in a division, establish new divisions, and create new or additional positions in the Department, when conducive to a more efficient administration and enforcement of laws pertaining to agriculture;

6. Sell, exchange, or dispose of property;

7. Have jurisdiction over all matters affecting animal industry, animal health, and animal quarantine;

8. Issue stop-sale and stop-use orders and quarantines;

9. Employ, appoint, or contract and fix the duties and compensation of the director of each division of the Department and other personnel, either on a full-time, part-time, or contractual basis, as deemed necessary by the Board;

10. Fix the qualifications of the personnel in the Department;

11. Accept and use grants of money and other property from any source;

12. Advise, consult, cooperate, and enter into agreements or contracts with persons as defined in the Oklahoma Agricultural Code;

13. Coordinate with the federal government and other states on matters pertaining to agriculture;

14. Revoke, suspend, or deny for up to one (1) year, any license, permit, or charter issued by the Board if the Board finds any violations of the Oklahoma Agricultural Code or any rule of the Board;

15. Adopt a master plan and promulgate rules for the protection of state-owned and private forestry, grazing, and other lands from damage by fire and for suppressing fires on lands. In carrying out the master plan the Board is authorized to enter into contractual agreements with the federal government, local political subdivisions of the state, individuals, private organizations, companies, and

corporations for protection and for the suppression of fires and to expend funds as available for these services. To effectuate the purposes of the Oklahoma Agricultural Code, the Board is authorized to enter into contractual agreements with private landowners for the protection and suppression of fires, provided that the private landowners reimburse the Board for actual expenses incurred in the protection and suppression of fires on privately owned lands;

16. Have jurisdiction over all matters affecting agriculture as contained and set out in the Oklahoma Agricultural Code, which have not been expressly delegated to another state or federal agency and be responsible for fully implementing and enforcing the laws and rules within its jurisdictional areas of environmental responsibility.

a. The Department of Environmental Quality shall have environmental jurisdiction over:

(1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill, and other agricultural products,

(2) slaughterhouses, but not including feedlots at these facilities, and

(3) aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities.

b. Facilities storing grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination System (NPDES) regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to storm water discharges;

17. Have jurisdiction over all matters affecting the importation, health, and quarantining of exotic livestock;

18. Prescribe forms of application, certification, licenses, charters, and other forms and blanks as may be necessary to carry out the provisions of the Oklahoma Agricultural Code;

19. Stagger throughout the year the renewal dates for any licenses or permits issued by the Department pursuant to the provisions of the Oklahoma Agricultural Code by notifying licensees in writing of the expiration and renewal date being assigned to the licensee and permittee and by making an appropriate adjustment in the fee charged for the license or permit;

20. Establish and collect fees for licenses, permits, charters, and services provided. The fees shall be promulgated in accordance with the Administrative Procedures Act and shall be fair and equitable to all parties concerned;

21. Establish planting and harvesting seasons for the purpose of meeting the maximum driving and on-duty time exemptions set forth in the National Highway System Designation Act of 1995. The Board shall notify the United States Secretary of Transportation of the seasons;

22. Fix and adopt official standards for grading and classifying any agricultural commodity, meat, or meat product prepared, produced, or distributed in Oklahoma;

23. Promulgate rules, make investigations, and conduct hearings for the purpose of making inspection compulsory on any agricultural commodity and designate the shipping points where compulsory inspection applies;

24. Inspect agricultural commodities, at any time, upon request of any financially interested party or when necessary and to issue certificates showing the quality and condition of the commodities at the time of the inspection;

25. Grade meat or meat products upon the request of any packing plant in Oklahoma. The packing plant shall be required to pay the

cost of services, including the compensation and expenses of personnel employed to perform the actual grading;

26. Apply to the district court for a temporary or permanent injunction or any other remedy restraining any person from violating the Oklahoma Agricultural Code;

27. Extend and implement the powers and provisions granted by the Oklahoma Agricultural Code to all programs administered by the Department regardless of whether the statutes creating the program are codified in this title;

28. Increase its efforts to ensure the safety and quality of food and food products for wholesalers and retail sales in this state and shall include, but not be limited to, inspections of retailers and wholesalers to ensure compliance with all federal and state certification standards;

29. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of the Oklahoma Agricultural Code;

30. Accept upon behalf of the Department any gift or donation of property, including but not limited to monetary gifts;

31. Promulgate rules regarding prescribed burning and smoke management;

32. Enter into written leases or lease-purchase agreements to acquire equipment, furnishings, supplies and other items necessary for the operation of the Oklahoma Department of Agriculture, Food, and Forestry Agriculture Laboratory;

33. Exercise all incidental powers and promulgate rules, procedures and forms which are necessary and proper to implement, administer and enforce the Oklahoma Scrap Metal Dealers Act;

34. Promulgate rules to ensure state control of any federal program relating to on-farm fruit and vegetable production inspections and regulation;

35. Develop a pollinator protection plan to promote the health of and mitigate the risks to honeybees and other managed pollinators; ~~and~~

36. Issue certificates of free sale for any products or items within the jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry; and

37. Prepare, in consultation with the Governor and the Attorney General, any necessary plans, reports or other documents for submission to the United States Department of Agriculture for approval of the Oklahoma Industrial Hemp Program.

B. 1. If upon inspection or investigation, or whenever the Oklahoma Department of Agriculture, Food, and Forestry determines that there are reasonable grounds to believe that any person is in violation of any part of the Oklahoma Environmental Quality Code which is the responsibility and jurisdiction of the Oklahoma Department of Agriculture, Food, and Forestry, any rule promulgated by the State Board of Agriculture, or of any order, permit, certificate, registration, charter, or license issued by the Board, the Department may give written notice to the alleged violator of the specific violation and of the alleged violator's duty to correct the violation immediately or within a set time period or both and that the failure to do so shall result in administrative fines or penalties.

2. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health, welfare, or the environment, the President of the State Board of Agriculture may without notice or hearing issue an order, effective upon issuance, reciting the existence of an emergency and requiring that action be taken as specified in the order to meet the emergency. Any person to whom an order is directed shall comply immediately but may request an administrative enforcement hearing within fifteen (15) days after the order is served. The hearing shall be held by the Department within ten (10) days after receipt of the request. On the basis of the hearing record, the President of the Board shall sustain or modify the original order.

SECTION 2. AMENDATORY Section 1, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Section 3-401), is amended to read as follows:

Section 3-401. This act shall be known and may be cited as the "Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program".

SECTION 3. AMENDATORY Section 2, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Section 3-402), is amended to read as follows:

Section 3-402. As used in the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program:

1. ~~"Certified seed" means industrial hemp seed that has been certified by the Oklahoma Department of Agriculture, Food, and Forestry as having no more than three-tenths of one percent (0.3%) delta-9 tetrahydrocannabinol concentration on a dry-weight basis;~~

~~2.~~ "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

2. "Handling" means possessing or storing industrial hemp for any period of time on premises owned, operated or controlled by a person licensed to cultivate or process industrial hemp and also includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person;

3. "Industrial hemp" means the plant Cannabis sativa L. and any part of the plant, including the seeds thereof, 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 three-tenths of one percent (0.3%) on a dry-weight basis;

4. "Licensee" means a ~~university or an institution of higher education located in Oklahoma which~~ person who holds a valid Industrial Hemp License to grow industrial hemp under the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program. ~~Nothing in the Oklahoma Industrial Hemp Agricultural Pilot Program shall prevent the licensee from adopting policies and procedures to subcontract with persons or other legal entities to carry out the purposes of the program; provided, that the Oklahoma Department of Agriculture,~~

~~Food, and Forestry shall ensure subcontractors comply with the program requirements; and~~

5. ~~"Industrial Hemp License" or~~ "License" means authorization by the Department for any ~~university or an institution of higher education in Oklahoma~~ person to grow and cultivate industrial hemp on a registered land area ~~for research and development purposes~~ as part of the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program; and

6. "Processing" means converting industrial hemp into a marketable form, including the production of all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers.

SECTION 4. AMENDATORY Section 3, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Section 3-403), is amended to read as follows:

Section 3-403. A. A licensee is authorized to~~:~~

~~1. Engage~~ engage in the growth ~~and~~, cultivation, handling or processing of industrial hemp ~~from certified seeds for agricultural plant research and development purposes; and~~

~~2. Engage in the growth and cultivation of industrial hemp from certified seeds for marketing development purposes~~.

B. The activities performed under the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program shall not subject the persons participating in the program to criminal liability under the Uniform Controlled Dangerous Substances Act. The exemption from criminal liability provided for in this subsection is a limited exemption that shall be strictly construed and shall not apply to an activity that is not expressly permitted under the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program.

SECTION 5. AMENDATORY Section 4, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Section 3-404), is amended to read as follows:

Section 3-404. A. A ~~university or an institution of higher education located in Oklahoma wishing~~ person intending to engage in industrial hemp growth ~~and~~, cultivation, handling or processing authorized under the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program shall apply to the Oklahoma Department of Agriculture, Food,

and Forestry for a license prior to planting, handling or processing the industrial hemp.

1. The application shall include:

a. the name and address of the ~~university or an institution of higher education~~ applicant,

b. the legal description, global positioning system location, and map of the land area on which the ~~licensee~~ applicant will engage in industrial hemp growth and cultivation operations, handling operations or processing operations, and

c. a statement of intended end use~~, and~~

~~d. a statement that the licensee intends to plant only certified seeds~~.

2. By submitting an application, the ~~licensee~~ applicant acknowledges and agrees that:

a. information provided to the Department may be provided to law enforcement agencies,

b. the ~~licensee and any entities contracting with the licensee~~ applicant shall allow and fully cooperate with any inspection and sampling that the Department deems necessary,

c. the ~~licensee~~ applicant will submit all required reports by the applicable due dates specified by the Department, and

d. the ~~licensee~~ applicant has the legal right to cultivate, handle or process industrial hemp ~~from certified seeds~~ on the registered land area and shall grant the Department access for inspection and sampling.

B. The Department shall collect a nonrefundable fee from the ~~licensee~~ applicant at the time of application. The Department shall

set a fee schedule based on the size and use of the land area on which the licensee will conduct industrial hemp growing or cultivation operations and shall set the fee at a level sufficient to generate the amount of monies necessary to cover the Department's direct costs in implementing the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program. Denied applications for a license may be resubmitted within a twelve-month period. The Department may waive the fee for resubmitted applications.

C. A license issued pursuant to this section is valid for one (1) year. In order to continue engaging in industrial hemp growth and cultivation operations in Oklahoma, the licensee ~~must~~ shall annually apply for a license in accordance with subsection A of this section. The Department may set a separate fee schedule for renewal of existing licenses in good standing.

D. All industrial hemp plant material shall be planted, grown and harvested under a valid license. Any plant material that is not harvested in the license period in which it was planted or volunteer plants that are not destroyed must be declared for inclusion in a subsequent license.

E. If the licensee wishes to alter the land area on which the licensee will conduct industrial hemp growth ~~and~~, cultivation, handling or processing operations within thirty (30) days of any new license, before altering the area, the licensee shall submit to the Department an updated legal description, global positioning system location, and map specifying the proposed alterations.

F. Each licensee shall report any changes to information provided in the license application within ten (10) days of such change to the Department.

G. A licensee shall maintain all records pertaining to the license and growing records for a minimum of three (3) years.

H. The Department shall promulgate rules necessary to implement the licensing program and to implement the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program.

I. The Department shall promulgate rules to facilitate transportation of industrial hemp.

SECTION 6. AMENDATORY Section 6, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Section 3-406), is amended to read as follows:

Section 3-406. A. At least thirty (30) days prior to harvest, each licensee shall file a harvest report on a form approved by the Department that includes:

1. A statement of intended disposition of its industrial hemp crop; and

2. The harvest date or dates, location and yield of each variety cultivated within a registered land area~~;~~

~~3. The documented environmental impacts and viability of each variety; and~~

~~4. Research data that would assist the Department in future commercialization of industrial hemp~~.

B. A licensee shall notify the Department immediately of any changes in a reported harvest date by more than five (5) days.

SECTION 7. AMENDATORY Section 7, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Section 3-407), is amended to read as follows:

Section 3-407. A. Any plants of the licensee are subject to at least annual routine ~~inspection~~ inspections and sampling to verify that the ~~delta-9 tetrahydrocannabinol concentration of the plants planted does not exceed three-tenths of one percent (0.3%) on a dry-weight basis~~ plant meets the definition of industrial hemp. The Department shall notify each licensee of the scope of the inspection and the process by which the inspection will be conducted. The Department shall promulgate rules regarding the procedures of inspection and sampling.

B. ~~In addition to any routine inspection and sampling under subsection A of this section, the~~ The Department may inspect and take samples from any licensee's plants during normal business hours.

C. Licenses for handling or processing shall be subject to at least annual inspections in addition to compliance inspections.

~~C.~~ D. The Department shall make a good-faith attempt to have the licensee present at the time of inspection and sampling. The licensee or authorized representative shall provide the Department's inspector with complete and unrestricted access to all plants, parts and seeds, whether growing or harvested, and all land, buildings and other structures used for the growth, cultivation, harvesting ~~or~~, storage, handling or processing of industrial hemp, and all documents and records pertaining to the licensee's industrial hemp-growing ~~and~~, cultivation operation, handling and processing.

~~D.~~ E. The licensee shall pay for any inspection and laboratory analysis costs that the Department deems necessary within thirty (30) days of the date of the receipt of an invoice for the costs. The Department shall waive all inspection or sampling costs if no inconsistencies or violations are identified during an inspection that is not part of the regular annual inspection process.

~~E.~~ F. The Department shall promulgate rules to establish a process by which a licensee may contest the procedures, protocols and results or findings of the inspection.

SECTION 8. AMENDATORY Section 8, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Section 3-408), is amended to read as follows:

Section 3-408. A. The Department may deny, revoke or suspend a license if the licensee:

1. Violates any provision of the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program or rules adopted pursuant to the program;

2. Engages in fraud or deception in the procurement of or attempt to procure a license under this Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program or provides false information on a license application;

3. Refuses or fails to cooperate and assist the Department with the inspection process;

4. Refuses or fails to provide any information required or requested by the Department for purposes of the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program;

5. Knowingly provides false, misleading or incorrect information pertaining to the licensee's cultivation, handling or processing of industrial hemp to the Department by any means, including information provided in any application form, report, record or inspection required or maintained for purposes of the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program;

6. Fails to submit any report required by the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program; or

7. Fails to pay fees required by the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program.

B. 1. If a sample of a licensee's industrial hemp tests higher than three-tenths of one percent (0.3%) but less than one percent (1%) delta-9 tetrahydrocannabinol concentration, the licensee shall not be subject to any penalty under the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program if the crop is destroyed ~~or utilized on site in a manner approved of and verified by the Department~~; and

2. The disposal method used shall be based on rules promulgated by the State Board of Agriculture and shall comply with a corrective action plan developed by the licensee.

C. 1. A licensee that negligently violates the provisions of the Oklahoma Industrial Hemp Program shall not be subject to a criminal enforcement action; and

2. A licensee that negligently violates the provisions of the Oklahoma Industrial Hemp Program three (3) times in any five-year period shall be ineligible to obtain a license to produce hemp for a period of five (5) years beginning on the date of the third violation.

D. Any person convicted of a felony relating to a controlled substance under state or federal law shall be ineligible during the ten-year period following the date of conviction to participate in this program.

SECTION 9. AMENDATORY Section 10, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Section 3-410), is amended to read as follows:

Section 3-410. There is hereby created in the State Treasury a revolving fund for the State Board of Agriculture to be designated the "Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the State Board of Agriculture from fees received and collected pursuant to the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program, donations, grants, contributions and gifts from any public or private source. The Board may expend funds for the purposes set forth in the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

SECTION 10. AMENDATORY 63 O.S. 2011, Section 2-101, as last amended by Section 34 of Enrolled Senate Bill No. 1041 of the 1st Session of the 57th Oklahoma Legislature, is amended to read as follows:

Section 2-101. As used in the Uniform Controlled Dangerous Substances Act:

1. "Administer" means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient, animal or research subject by:

a. a practitioner (or, in the presence of the practitioner, by the authorized agent of the practitioner), or

b. the patient or research subject at the direction and in the presence of the practitioner;

2. "Agent" means a peace officer appointed by and who acts on behalf of the Director of the Oklahoma State Bureau of Narcotics and

Dangerous Drugs Control or an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances but does not include a common or contract carrier, public warehouser or employee thereof, or a person required to register under the Uniform Controlled Dangerous Substances Act;

3. "Board" means the Advisory Board to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

4. "Bureau" means the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

5. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine or ecgonine;

6. "Commissioner" or "Director" means the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

7. "Control" means to add, remove or change the placement of a drug, substance or immediate precursor under the Uniform Controlled Dangerous Substances Act;

8. "Controlled dangerous substance" means a drug, substance or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act or any drug, substance or immediate precursor listed either temporarily or permanently as a federally controlled substance. Any conflict between state and federal law with regard to the particular schedule in which a substance is listed shall be resolved in favor of state law;

9. "Counterfeit substance" means a controlled substance which, or the container or labeling of which without authorization, bears the trademark, trade name or other identifying marks, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance;

10. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled dangerous substance or drug paraphernalia, whether or not there is an agency relationship;

11. "Dispense" means to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for such distribution. "Dispenser" is a practitioner who delivers a controlled dangerous substance to an ultimate user or human research subject;

12. "Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance;

13. "Distributor" means a commercial entity engaged in the distribution or reverse distribution of narcotics and dangerous drugs and who complies with all regulations promulgated by the federal Drug Enforcement Administration and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

14. "Drug" means articles:

a. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them,

b. intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals,

c. other than food, intended to affect the structure or any function of the body of man or other animals, and

d. intended for use as a component of any article specified in this paragraph;

provided, however, the term "drug" does not include devices or their components, parts or accessories;

15. "Drug-dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

16. "Home care agency" means any sole proprietorship, partnership, association, corporation, or other organization which administers, offers, or provides home care services, for a fee or pursuant to a contract for such services, to clients in their place of residence;

17. "Home care services" means skilled or personal care services provided to clients in their place of residence for a fee;

18. "Hospice" means a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program which provides a continuum of home and inpatient care for the terminally ill patient and the patient's family. Such term shall also include a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program if such program is licensed pursuant to the provisions of ~~the Uniform Controlled Dangerous Substances Act~~ Section 2-101 et seq. of this title. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need, regardless of ability to pay. "Class A" Hospice refers to Medicare certified hospices. "Class B" refers to all other providers of hospice services;

19. "Imitation controlled substance" means a substance that is not a controlled dangerous substance, which by dosage unit appearance, color, shape, size, markings or by representations made, would lead a reasonable person to believe that the substance is a controlled dangerous substance. In the event the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance", the court or

authority concerned should consider, in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance":

a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, or its use or effect,

b. statements made to the recipient that the substance may be resold for inordinate profit,

c. whether the substance is packaged in a manner normally used for illicit controlled substances,

d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,

e. prior convictions, if any, of an owner, or any other person in control of the object, under state or federal law related to controlled substances or fraud, and

f. the proximity of the substances to controlled dangerous substances;

20. "Immediate precursor" means a substance which the Director has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used, or likely to be used, in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail or limit such manufacture;

21. "Laboratory" means a laboratory approved by the Director as proper to be entrusted with the custody of controlled dangerous substances and the use of controlled dangerous substances for scientific and medical purposes and for purposes of instruction;

22. "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled dangerous substance, either directly or indirectly by extraction from

substances of natural or synthetic origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" includes any person who packages, repackages or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer;

23. "Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include:

a. the mature stalks of such plant or fiber produced from such stalks,

b. oil or cake made from the seeds of such plant, including cannabidiol derived from the seeds of the ~~marijuana~~ industrial hemp plant,

c. any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), including cannabidiol derived from mature stalks, fiber, oil or cake of the industrial hemp plant,

d. the sterilized seed of such plant which is incapable of germination,

e. for any person participating in a clinical trial to administer cannabidiol for the treatment of severe forms of epilepsy pursuant to Section 2-802 of this title, a drug or substance approved by the federal Food and Drug Administration for use by those participants,

f. for any person or the parents, legal guardians or caretakers of the person who have received a written certification from a physician licensed in this state that the person has been diagnosed by a physician as having Lennox-Gastaut Syndrome, Dravet Syndrome, also known as Severe Myoclonic Epilepsy of Infancy, or any

other severe form of epilepsy that is not adequately treated by traditional medical therapies, spasticity due to multiple sclerosis or due to paraplegia, intractable nausea and vomiting, appetite stimulation with chronic wasting diseases, the substance cannabidiol, a nonpsychoactive cannabinoid, found in the plant Cannabis sativa L. or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid,

g. any federal Food and Drug Administration-approved cannabidiol drug or substance, or

h. industrial hemp, from the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis which shall only be grown pursuant to the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program and may be shipped ~~to Oklahoma pursuant to the provisions of subparagraph e or f of this paragraph~~ intrastate and interstate;

24. "Medical purpose" means an intention to utilize a controlled dangerous substance for physical or mental treatment, for diagnosis, or for the prevention of a disease condition not in violation of any state or federal law and not for the purpose of satisfying physiological or psychological dependence or other abuse;

25. "Mid-level practitioner" means an advanced practice nurse as defined and within parameters specified in Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified animal euthanasia technician as defined in Section 698.2 of Title 59 of the Oklahoma Statutes, or an animal control officer registered by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control under subsection B of Section 2-301 of this title within the parameters of such officer's duty under Sections 501 through 508 of Title 4 of the Oklahoma Statutes;

26. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. opium, coca leaves and opiates,

b. a compound, manufacture, salt, derivative or preparation of opium, coca leaves or opiates,

c. cocaine, its salts, optical and geometric isomers, and salts of isomers,

d. ecgonine, its derivatives, their salts, isomers and salts of isomers, and

e. a substance, and any compound, manufacture, salt, derivative or preparation thereof, which is chemically identical with any of the substances referred to in subparagraphs a through d of this paragraph, except that the words "narcotic drug" as used in Section 2-101 et seq. of this title shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

27. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under the Uniform Controlled Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

28. "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof;

29. "Peace officer" means a police officer, sheriff, deputy sheriff, district attorney's investigator, investigator from the Office of the Attorney General, or any other person elected or appointed by law to enforce any of the criminal laws of this state or of the United States;

30. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

31. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

32. "Practitioner" means:

a. (1) a medical doctor or osteopathic physician,

(2) a dentist,

(3) a podiatrist,

(4) an optometrist,

(5) a veterinarian,

(6) a physician assistant under the supervision of a licensed medical doctor or osteopathic physician,

(7) a scientific investigator, or

(8) any other person,

licensed, registered or otherwise permitted to prescribe, distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state, or

b. a pharmacy, hospital, laboratory or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state;

33. "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled dangerous substance;

34. "State" means the State of Oklahoma or any other state of the United States;

35. "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for the person's own use or for the use of a member of the person's household or for administration to an animal owned by the person or by a member of the person's household;

36. "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act including, but not limited to:

a. kits used, intended for use, or fashioned specifically for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived,

b. kits used, intended for use, or fashioned specifically for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,

c. isomerization devices used, intended for use, or fashioned specifically for use in increasing the potency of any species of plant which is a controlled dangerous substance,

d. testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing

the strength, effectiveness or purity of controlled dangerous substances,

e. scales and balances used, intended for use, or fashioned specifically for use in weighing or measuring controlled dangerous substances,

f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or fashioned specifically for use in cutting controlled dangerous substances,

g. separation gins and sifters used, intended for use, or fashioned specifically for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana,

h. blenders, bowls, containers, spoons and mixing devices used, intended for use, or fashioned specifically for use in compounding controlled dangerous substances,

i. capsules, balloons, envelopes and other containers used, intended for use, or fashioned specifically for use in packaging small quantities of controlled dangerous substances,

j. containers and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,

k. hypodermic syringes, needles and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,

l. objects used, intended for use, or fashioned specifically for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,

(2) water pipes,

(3) carburetion tubes and devices,

(4) smoking and carburetion masks,

(5) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand,

(6) miniature cocaine spoons and cocaine vials,

(7) chamber pipes,

(8) carburetor pipes,

(9) electric pipes,

(10) air-driven pipes,

(11) chillums,

(12) bongs, or

(13) ice pipes or chillers,

m. all hidden or novelty pipes, and

n. any pipe that has a tobacco bowl or chamber of less than one-half (1/2) inch in diameter in which there is any detectable residue of any controlled dangerous substance as defined in this section or any other substances not legal for possession or use;

provided, however, the term "drug paraphernalia" shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for

ornamentation in which no detectable amount of an illegal substance is found or pipes designed and used solely for smoking tobacco, traditional pipes of an American Indian tribal religious ceremony, or antique pipes that are thirty (30) years of age or older;

37. a. "Synthetic controlled substance" means a substance:

(1) the chemical structure of which is substantially similar to the chemical structure of a controlled dangerous substance in Schedule I or II,

(2) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II, or

(3) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled dangerous substance in Schedule I or II.

b. The designation of gamma butyrolactone or any other chemical as a precursor, pursuant to Section 2-322 of this title, does not preclude a finding pursuant to subparagraph a of this paragraph that the chemical is a synthetic controlled substance.

c. "Synthetic controlled substance" does not include:

(1) a controlled dangerous substance,

(2) any substance for which there is an approved new drug application,

(3) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person under the provisions of Section 505 of the Federal Food, Drug and Cosmetic Act, Title 21 of the United States Code, Section 355, to the extent conduct with respect to such substance is pursuant to such exemption, or

(4) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

d. Prima facie evidence that a substance containing salvia divinorum has been enhanced, concentrated or chemically or physically altered shall give rise to a rebuttable presumption that the substance is a synthetic controlled substance;

38. "Tetrahydrocannabinols" means all substances that have been chemically synthesized to emulate the tetrahydrocannabinols of marijuana;

39. "Isomer" means the optical isomer, except as used in subsections C and F of Section 2-204 of this title and paragraph 4 of subsection A of Section 2-206 of this title. As used in subsections C and F of Section 2-204 of this title, "isomer" means the optical, positional or geometric isomer. As used in paragraph 4 of subsection A of Section 2-206 of this title, the term "isomer" means the optical or geometric isomer;

40. "Hazardous materials" means materials, whether solid, liquid or gas, which are toxic to human, animal, aquatic or plant life, and the disposal of which materials is controlled by state or federal guidelines;

41. "Anhydrous ammonia" means any substance that exhibits cryogenic evaporative behavior and tests positive for ammonia;

42. "Acute pain" means pain, whether resulting from disease, accidental or intentional trauma or other cause, that the practitioner reasonably expects to last only a short period of time.

"Acute pain" does not include chronic pain, pain being treated as part of cancer care, hospice or other end-of-life care, or pain being treated as part of palliative care;

43. "Chronic pain" means pain that persists beyond the usual course of an acute disease or healing of an injury. "Chronic pain" may or may not be associated with an acute or chronic pathologic process that causes continuous or intermittent pain over months or years;

44. "Initial prescription" means a prescription issued to a patient who:

a. has never previously been issued a prescription for the drug or its pharmaceutical equivalent in the past year, or

b. requires a prescription for the drug or its pharmaceutical equivalent due to a surgical procedure or new acute event and has previously had a prescription for the drug or its pharmaceutical equivalent within the past year.

When determining whether a patient was previously issued a prescription for a drug or its pharmaceutical equivalent, the practitioner shall consult with the patient and review the medical record and prescription monitoring information of the patient;

45. "Patient-provider agreement" means a written contract or agreement that is executed between a practitioner and a patient, prior to the commencement of treatment for chronic pain using a Schedule II controlled substance or any opioid drug which is a prescription drug, as a means to:

a. explain the possible risk of development of physical or psychological dependence in the patient and prevent the possible development of addiction,

b. document the understanding of both the practitioner and the patient regarding the pain-management plan of the patient,

c. establish the rights of the patient in association with treatment and the obligations of the patient in relation to the responsible use, discontinuation of use, and storage of Schedule II controlled dangerous substances, including any restrictions on the refill of prescriptions or the acceptance of Schedule II prescriptions from practitioners,

d. identify the specific medications and other modes of treatment, including physical therapy or exercise, relaxation or psychological counseling, that are included as a part of the pain-management plan,

e. specify the measures the practitioner may employ to monitor the compliance of the patient including, but not limited to, random specimen screens and pill counts, and

f. delineate the process for terminating the agreement, including the consequences if the practitioner has reason to believe that the patient is not complying with the terms of the agreement. Compliance with the "consent items" shall constitute a valid, informal consent for opioid therapy. The provider shall be held harmless from civil litigation for failure to treat pain if the event occurs because of nonadherence by the patient with any of the provisions of the patient-provider agreement;

46. "Serious illness" means a medical illness or physical injury or condition that substantially affects quality of life for more than a short period of time. "Serious illness" includes, but is not limited to, Alzheimer's disease or related dementias, lung disease, cancer, heart failure, renal failure, liver failure or chronic, unremitting or intractable pain such as neuropathic pain; and

47. "Surgical procedure" means a procedure that is performed for the purpose of structurally altering the human body by incision or destruction of tissues as part of the practice of medicine. This term includes the diagnostic or therapeutic treatment of conditions or disease processes by use of instruments such as lasers,

ultrasound, ionizing, radiation, scalpels, probes or needles that cause localized alteration or transportation of live human tissue by cutting, burning, vaporizing, freezing, suturing, probing or manipulating by closed reduction for major dislocations or fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic or chemical means.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-411 of Title 2, unless there is created a duplication in numbering, reads as follows:

Cannabidiol shall not be processed in the State of Oklahoma from any sources which would be in violation of the United States Code or the Code of Federal Regulations.

SECTION 12. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Department of Agriculture, Food, and Forestry is authorized to promulgate emergency rules as soon as practicable.

SECTION 13. REPEALER Sections 5 and 9, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018, Sections 3-405 and 3-409), are hereby repealed.

SECTION 14. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 14th day of March, 2019.

_____
Presiding Officer of the Senate

Passed the House of Representatives the 11th day of April, 2019.

_____
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

_____
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20 _____, at _____ o'clock _____ M.

By: _____