

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 868, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Paxton

Paxton-QD-FS-Req#2050
3/12/2019 6:13 PM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 868

6 By: Paxton

7
8 FLOOR SUBSTITUTE

9 An Act relating to industrial hemp; amending 2 O.S.
10 2011, Section 2-4, as last amended by Section 1,
11 Chapter 199, O.S.L. 2018 (2 O.S. Supp. 2018, Section
12 2-4), which relates to the powers of the State Board
13 of Agriculture; authorizing the Board to submit and
14 prepare plans for approval of the Oklahoma Industrial
15 Hemp Program; amending Sections 1, 2, 3, 4, 6, 7, 8
16 and 10, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018,
17 Sections 3-401, 3-402, 3-403, 3-404, 3-406, 3-407, 3-
18 408 and 3-410), which relate to the Oklahoma
19 Industrial Hemp Agricultural Pilot Program; modifying
20 the name of act; modifying, deleting and creating
21 definitions; requiring license for the handling or
22 processing of industrial hemp; clarifying statutory
23 language; removing certified seed requirement;
24 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 11, Chapter 64, O.S.L. 2018 (63 O.S. Supp.
2018, Section 2-101), which relates to the Uniform
Controlled Dangerous Substances Act; modifying

1 definition; prohibiting the production of cannabidiol
2 from federally illegal sources; repealing Sections 5
3 and 9, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018,
4 Sections 3-405 and 3-409), which relate to the
5 Oklahoma Industrial Hemp Agricultural Pilot Program;
6 authorizing the Department to promulgate emergency
7 rules; providing for codification; providing for
8 noncodification; and declaring an emergency.

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

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

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

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

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

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

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

- 1 5. Consolidate any of the divisions established by the Oklahoma
2 Agricultural Code, transfer any of the functions or activities to
3 another division, place additional functions or activities in a
4 division, establish new divisions, and create new or additional
5 positions in the Department, when conducive to a more efficient
6 administration and enforcement of laws pertaining to agriculture;
- 7 6. Sell, exchange, or dispose of property;
- 8 7. Have jurisdiction over all matters affecting animal
9 industry, animal health, and animal quarantine;
- 10 8. Issue stop-sale and stop-use orders and quarantines;
- 11 9. Employ, appoint, or contract and fix the duties and
12 compensation of the director of each division of the Department and
13 other personnel, either on a full-time, part-time, or contractual
14 basis, as deemed necessary by the Board;
- 15 10. Fix the qualifications of the personnel in the Department;
- 16 11. Accept and use grants of money and other property from any
17 source;
- 18 12. Advise, consult, cooperate, and enter into agreements or
19 contracts with persons as defined in the Oklahoma Agricultural Code;
- 20 13. Coordinate with the federal government and other states on
21 matters pertaining to agriculture;
- 22 14. Revoke, suspend, or deny for up to one (1) year, any
23 license, permit, or charter issued by the Board if the Board finds
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1 any violations of the Oklahoma Agricultural Code or any rule of the
2 Board;

3 15. Adopt a master plan and promulgate rules for the protection
4 of state-owned and private forestry, grazing, and other lands from
5 damage by fire and for suppressing fires on lands. In carrying out
6 the master plan the Board is authorized to enter into contractual
7 agreements with the federal government, local political subdivisions
8 of the state, individuals, private organizations, companies, and
9 corporations for protection and for the suppression of fires and to
10 expend funds as available for these services. To effectuate the
11 purposes of the Oklahoma Agricultural Code, the Board is authorized
12 to enter into contractual agreements with private landowners for the
13 protection and suppression of fires, provided that the private
14 landowners reimburse the Board for actual expenses incurred in the
15 protection and suppression of fires on privately owned lands;

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

22 a. The Department of Environmental Quality shall have
23 environmental jurisdiction over:
24

- 1 (1) commercial manufacturers of fertilizers, grain
2 and feed products, and chemicals, and over
3 manufacturing of food and kindred products,
4 tobacco, paper, lumber, wood, textile mill, and
5 other agricultural products,
6 (2) slaughterhouses, but not including feedlots at
7 these facilities, and
8 (3) aquaculture and fish hatcheries, including, but
9 not limited to, discharges of pollutants and
10 storm water to waters of the state, surface
11 impoundments and land application of wastes and
12 sludge, and other pollution originating at these
13 facilities.

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

21 17. Have jurisdiction over all matters affecting the
22 importation, health, and quarantining of exotic livestock;
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1 18. Prescribe forms of application, certification, licenses,
2 charters, and other forms and blanks as may be necessary to carry
3 out the provisions of the Oklahoma Agricultural Code;

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

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

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

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

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

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

7 25. Grade meat or meat products upon the request of any packing
8 plant in Oklahoma. The packing plant shall be required to pay the
9 cost of services, including the compensation and expenses of
10 personnel employed to perform the actual grading;

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

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

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

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

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

6 31. Promulgate rules regarding prescribed burning and smoke
7 management;

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

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

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

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

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

24

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

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

18 2. Whenever the Department finds that an emergency exists
19 requiring immediate action to protect the public health, welfare, or
20 the environment, the President of the State Board of Agriculture may
21 without notice or hearing issue an order, effective upon issuance,
22 reciting the existence of an emergency and requiring that action be
23 taken as specified in the order to meet the emergency. Any person
24 to whom an order is directed shall comply immediately but may

1 request an administrative enforcement hearing within fifteen (15)
2 days after the order is served. The hearing shall be held by the
3 Department within ten (10) days after receipt of the request. On
4 the basis of the hearing record, the President of the Board shall
5 sustain or modify the original order.

6 SECTION 2. AMENDATORY Section 1, Chapter 64, O.S.L. 2018
7 (2 O.S. Supp. 2018, Section 3-401), is amended to read as follows:

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

10 SECTION 3. AMENDATORY Section 2, Chapter 64, O.S.L. 2018
11 (2 O.S. Supp. 2018, Section 3-402), is amended to read as follows:

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

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

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

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

1 premises of a licensed person to cultivate or process industrial
2 hemp to the premises of another licensed person;

3 3. "Industrial hemp" means the plant Cannabis sativa L. and any
4 part of the plant, including the seeds thereof, and all derivatives,
5 extracts, cannabinoids, isomers, acids, salts and salts of isomers,
6 whether growing or not, with a delta-9 tetrahydrocannabinol
7 concentration of not more than three-tenths of one percent (0.3%) on
8 a dry-weight basis;

9 4. "Licensee" means a ~~university or an institution of higher~~
10 ~~education located in Oklahoma which~~ person who holds a valid
11 Industrial Hemp License to grow industrial hemp under the Oklahoma
12 Industrial Hemp ~~Agricultural Pilot Program. Nothing in the Oklahoma~~
13 ~~Industrial Hemp Agricultural Pilot Program shall prevent the~~
14 ~~licensee from adopting policies and procedures to subcontract with~~
15 ~~persons or other legal entities to carry out the purposes of the~~
16 ~~program; provided, that the Oklahoma Department of Agriculture,~~
17 ~~Food, and Forestry shall ensure subcontractors comply with the~~
18 ~~program requirements; and~~

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

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

4 SECTION 4. AMENDATORY Section 3, Chapter 64, O.S.L. 2018
5 (2 O.S. Supp. 2018, Section 3-403), is amended to read as follows:

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

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

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

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

20 SECTION 5. AMENDATORY Section 4, Chapter 64, O.S.L. 2018
21 (2 O.S. Supp. 2018, Section 3-404), is amended to read as follows:

22 Section 3-404. A. A ~~university or an institution of higher~~
23 ~~education located in Oklahoma wishing~~ person intending to engage in
24 industrial hemp growth and, cultivation, handling or processing

1 authorized under the Oklahoma Industrial Hemp ~~Agricultural Pilot~~
2 Program shall apply to the Oklahoma Department of Agriculture, Food,
3 and Forestry for a license prior to planting, handling or processing
4 the industrial hemp.

5 1. The application shall include:

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

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

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

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

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

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

20 b. the ~~licensee and any entities contracting with the~~
21 ~~licensee~~ applicant shall allow and fully cooperate
22 with any inspection and sampling that the Department
23 deems necessary,
24

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

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

9 B. The Department shall collect a nonrefundable fee from the
10 ~~licensee~~ applicant at the time of application. The Department shall
11 set a fee schedule based on the size and use of the land area on
12 which the licensee will conduct industrial hemp growing or
13 cultivation operations and shall set the fee at a level sufficient
14 to generate the amount of monies necessary to cover the Department's
15 direct costs in implementing the Oklahoma Industrial Hemp
16 ~~Agricultural Pilot~~ Program. Denied applications for a license may
17 be resubmitted within a twelve-month period. The Department may
18 waive the fee for resubmitted applications.

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

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

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

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

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

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

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

22 SECTION 6. AMENDATORY Section 6, Chapter 64, O.S.L. 2018
23 (2 O.S. Supp. 2018, Section 3-406), is amended to read as follows:
24

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

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

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

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

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

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

14 SECTION 7. AMENDATORY Section 7, Chapter 64, O.S.L. 2018
15 (2 O.S. Supp. 2018, Section 3-407), is amended to read as follows:

16 Section 3-407. A. Any plants of the licensee are subject to at
17 least annual routine inspection inspections and sampling to verify
18 that the ~~delta-9 tetrahydrocannabinol concentration of the plants~~
19 ~~planted does not exceed three-tenths of one percent (0.3%) on a dry-~~
20 ~~weight basis~~ plant meets the definition of industrial hemp. The

21 Department shall notify each licensee of the scope of the inspection
22 and the process by which the inspection will be conducted. The
23 Department shall promulgate rules regarding the procedures of
24 inspection and sampling.

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

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

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

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

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

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

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

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

7 2. Engages in fraud or deception in the procurement of or
8 attempt to procure a license under this Oklahoma Industrial Hemp

9 ~~Agricultural Pilot~~ Program or provides false information on a
10 license application;

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

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

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

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

24

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

3 B. 1. If a sample of a licensee's industrial hemp tests higher
4 than three-tenths of one percent (0.3%) but less than one percent
5 (1%) delta-9 tetrahydrocannabinol concentration, the licensee shall
6 not be subject to any penalty under the Oklahoma Industrial Hemp
7 ~~Agricultural Pilot~~ Program if the crop is destroyed ~~or utilized on~~
8 ~~site in a manner approved of and verified by the Department;~~ and

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

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

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

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

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

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

18 SECTION 10. AMENDATORY 63 O.S. 2011, Section 2-101, as
19 last amended by Section 11, Chapter 64, O.S.L. 2018 (63 O.S. Supp.
20 2018, Section 2-101), is amended to read as follows:

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

23 1. "Administer" means the direct application of a controlled
24 dangerous substance, whether by injection, inhalation, ingestion or

1 any other means, to the body of a patient, animal or research
2 subject by:

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

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

8 2. "Agent" means a peace officer appointed by and who acts on
9 behalf of the Director of the Oklahoma State Bureau of Narcotics and
10 Dangerous Drugs Control or an authorized person who acts on behalf
11 of or at the direction of a person who manufactures, distributes,
12 dispenses, prescribes, administers or uses for scientific purposes
13 controlled dangerous substances but does not include a common or
14 contract carrier, public warehouse or employee thereof, or a person
15 required to register under the Uniform Controlled Dangerous
16 Substances Act;

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

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

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

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

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

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

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

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

23 11. "Dispense" means to deliver a controlled dangerous
24 substance to an ultimate user or human research subject by or

1 pursuant to the lawful order of a practitioner, including the
2 prescribing, administering, packaging, labeling or compounding
3 necessary to prepare the substance for such distribution.

4 "Dispenser" is a practitioner who delivers a controlled dangerous
5 substance to an ultimate user or human research subject;

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

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

13 14. "Drug" means articles:

14 a. recognized in the official United States

15 Pharmacopoeia, official Homeopathic Pharmacopoeia of
16 the United States, or official National Formulary, or
17 any supplement to any of them,

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

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

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

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

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

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

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

18 18. "Hospice" means a centrally administered, nonprofit or
19 profit, medically directed, nurse-coordinated program which provides
20 a continuum of home and inpatient care for the terminally ill
21 patient and the patient's family. Such term shall also include a
22 centrally administered, nonprofit or profit, medically directed,
23 nurse-coordinated program if such program is licensed pursuant to
24 the provisions of ~~this act~~ Section 2-101 et seq. of this title. A

1 hospice program offers palliative and supportive care to meet the
2 special needs arising out of the physical, emotional and spiritual
3 stresses which are experienced during the final stages of illness
4 and during dying and bereavement. This care is available twenty-
5 four (24) hours a day, seven (7) days a week, and is provided on the
6 basis of need, regardless of ability to pay. "Class A" Hospice
7 refers to Medicare certified hospices. "Class B" refers to all
8 other providers of hospice services;

9 19. "Imitation controlled substance" means a substance that is
10 not a controlled dangerous substance, which by dosage unit
11 appearance, color, shape, size, markings or by representations made,
12 would lead a reasonable person to believe that the substance is a
13 controlled dangerous substance. In the event the appearance of the
14 dosage unit is not reasonably sufficient to establish that the
15 substance is an "imitation controlled substance", the court or
16 authority concerned should consider, in addition to all other
17 factors, the following factors as related to "representations made"
18 in determining whether the substance is an "imitation controlled
19 substance":

- 20 a. statements made by an owner or by any other person in
21 control of the substance concerning the nature of the
22 substance, or its use or effect,
- 23 b. statements made to the recipient that the substance
24 may be resold for inordinate profit,

- 1 c. whether the substance is packaged in a manner normally
2 used for illicit controlled substances,
3 d. evasive tactics or actions utilized by the owner or
4 person in control of the substance to avoid detection
5 by law enforcement authorities,
6 e. prior convictions, if any, of an owner, or any other
7 person in control of the object, under state or
8 federal law related to controlled substances or fraud,
9 and
10 f. the proximity of the substances to controlled
11 dangerous substances;

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

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

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

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

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

- 12 a. the mature stalks of such plant or fiber produced from
13 such stalks,
- 14 b. oil or cake made from the seeds of such plant,
15 including cannabidiol derived from the seeds of the
16 ~~marijuana~~ industrial hemp plant,
- 17 c. any other compound, manufacture, salt, derivative,
18 mixture or preparation of such mature stalks (except
19 the resin extracted therefrom), including cannabidiol
20 derived from mature stalks, fiber, oil or cake of the
21 industrial hemp plant,
- 22 d. the sterilized seed of such plant which is incapable
23 of germination,

24

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

7 f. for any person or the parents, legal guardians or
8 caretakers of the person who have received a written
9 certification from a physician licensed in this state
10 that the person has been diagnosed by a physician as
11 having Lennox-Gastaut Syndrome, Dravet Syndrome, also
12 known as Severe Myoclonic Epilepsy of Infancy, or any
13 other severe form of epilepsy that is not adequately
14 treated by traditional medical therapies, spasticity
15 due to multiple sclerosis or due to paraplegia,
16 intractable nausea and vomiting, appetite stimulation
17 with chronic wasting diseases, the substance
18 cannabidiol, a nonpsychoactive cannabinoid, found in
19 the plant Cannabis sativa L. or any other preparation
20 thereof, that has a tetrahydrocannabinol concentration
21 of not more than three-tenths of one percent (0.3%)
22 and that is delivered to the patient in the form of a
23 liquid,

- 1 g. any federal Food and Drug Administration-approved
2 cannabidiol drug or substance, or
- 3 h. industrial hemp, from the plant Cannabis sativa L. and
4 any part of such plant, whether growing or not, with a
5 delta-9 tetrahydrocannabinol concentration of not more
6 than three-tenths of one percent (0.3%) on a dry
7 weight basis which shall only be grown pursuant to the
8 Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program
9 and may be shipped ~~to Oklahoma pursuant to the~~
10 ~~provisions of subparagraph e or f of this paragraph~~
11 intrastate and interstate;

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

17 25. "Mid-level practitioner" means an advanced practice nurse
18 as defined and within parameters specified in Section 567.3a of
19 Title 59 of the Oklahoma Statutes, or a certified animal euthanasia
20 technician as defined in Section 698.2 of Title 59 of the Oklahoma
21 Statutes, or an animal control officer registered by the Oklahoma
22 State Bureau of Narcotics and Dangerous Drugs Control under
23 subsection B of Section 2-301 of this title within the parameters of
24

1 such officer's duty under Sections 501 through 508 of Title 4 of the
2 Oklahoma Statutes;

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

- 7 a. opium, coca leaves and opiates,
- 8 b. a compound, manufacture, salt, derivative or
9 preparation of opium, coca leaves or opiates,
- 10 c. cocaine, its salts, optical and geometric isomers, and
11 salts of isomers,
- 12 d. ecgonine, its derivatives, their salts, isomers and
13 salts of isomers, and
- 14 e. a substance, and any compound, manufacture, salt,
15 derivative or preparation thereof, which is chemically
16 identical with any of the substances referred to in
17 subparagraphs a through d of this paragraph, except
18 that the words "narcotic drug" as used in Section 2-
19 101 et seq. of this title shall not include
20 decocainized coca leaves or extracts of coca leaves,
21 which extracts do not contain cocaine or ecgonine;

22 27. "Opiate" means any substance having an addiction-forming or
23 addiction-sustaining liability similar to morphine or being capable
24 of conversion into a drug having such addiction-forming or

1 addiction-sustaining liability. It does not include, unless
2 specifically designated as controlled under the Uniform Controlled
3 Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-
4 methyl-morphinan and its salts (dextromethorphan). It does include
5 its racemic and levorotatory forms;

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

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

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

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

18 32. "Practitioner" means:

- 19 a. (1) a medical doctor or osteopathic physician,
20 (2) a dentist,
21 (3) a podiatrist,
22 (4) an optometrist,
23 (5) a veterinarian,
24

1 (6) a physician assistant under the supervision of a
2 licensed medical doctor or osteopathic physician,
3 (7) a scientific investigator, or
4 (8) any other person,
5 licensed, registered or otherwise permitted to
6 prescribe, distribute, dispense, conduct research with
7 respect to, use for scientific purposes or administer
8 a controlled dangerous substance in the course of
9 professional practice or research in this state, or
10 b. a pharmacy, hospital, laboratory or other institution
11 licensed, registered or otherwise permitted to
12 distribute, dispense, conduct research with respect
13 to, use for scientific purposes or administer a
14 controlled dangerous substance in the course of
15 professional practice or research in this state;

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

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

21 35. "Ultimate user" means a person who lawfully possesses a
22 controlled dangerous substance for the person's own use or for the
23 use of a member of the person's household or for administration to
24

1 an animal owned by the person or by a member of the person's
2 household;

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

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

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

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

- 1 d. testing equipment used, intended for use, or fashioned
2 specifically for use in identifying, or in analyzing
3 the strength, effectiveness or purity of controlled
4 dangerous substances,
- 5 e. scales and balances used, intended for use, or
6 fashioned specifically for use in weighing or
7 measuring controlled dangerous substances,
- 8 f. diluents and adulterants, such as quinine
9 hydrochloride, mannitol, mannite, dextrose and
10 lactose, used, intended for use, or fashioned
11 specifically for use in cutting controlled dangerous
12 substances,
- 13 g. separation gins and sifters used, intended for use, or
14 fashioned specifically for use in removing twigs and
15 seeds from, or in otherwise cleaning or refining,
16 marijuana,
- 17 h. blenders, bowls, containers, spoons and mixing devices
18 used, intended for use, or fashioned specifically for
19 use in compounding controlled dangerous substances,
- 20 i. capsules, balloons, envelopes and other containers
21 used, intended for use, or fashioned specifically for
22 use in packaging small quantities of controlled
23 dangerous substances,
24

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

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

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

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

16 (2) water pipes,

17 (3) carburetion tubes and devices,

18 (4) smoking and carburetion masks,

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

23 (6) miniature cocaine spoons and cocaine vials,

24 (7) chamber pipes,

- 1 (8) carburetor pipes,
2 (9) electric pipes,
3 (10) air-driven pipes,
4 (11) chillums,
5 (12) bongs, or
6 (13) ice pipes or chillers,
7 m. all hidden or novelty pipes, and
8 n. any pipe that has a tobacco bowl or chamber of less
9 than one-half (1/2) inch in diameter in which there is
10 any detectable residue of any controlled dangerous
11 substance as defined in this section or any other
12 substances not legal for possession or use;
13 provided, however, the term "drug paraphernalia" shall not include
14 separation gins intended for use in preparing tea or spice, clamps
15 used for constructing electrical equipment, water pipes designed for
16 ornamentation in which no detectable amount of an illegal substance
17 is found or pipes designed and used solely for smoking tobacco,
18 traditional pipes of an American Indian tribal religious ceremony,
19 or antique pipes that are thirty (30) years of age or older;

- 20 37. a. "Synthetic controlled substance" means a substance:
21 (1) the chemical structure of which is substantially
22 similar to the chemical structure of a controlled
23 dangerous substance in Schedule I or II,
24

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

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

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

21 c. "Synthetic controlled substance" does not include:

22 (1) a controlled dangerous substance,

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

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

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

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

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

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

1 of subsection A of Section 2-206 of this title, the term "isomer"
2 means the optical or geometric isomer;

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

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

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

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

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

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

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

22 SECTION 14. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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