

1 **SENATE FLOOR VERSION**

2 February 25, 2019

3 SENATE BILL NO. 868

By: Paxton

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5
6 An Act relating to Industrial Hemp; amending Sections
7 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Chapter 64, O.S.L.
8 2018 (2 O.S. Supp. 2018, Sections 3-401, 3-402, 3-
9 403, 3-404, 3-405, 3-406, 3-407, 3-408, 3-409 and 3-
10 410), which relate to the Oklahoma Industrial Hemp
11 Agricultural Pilot Program; renaming act; modifying
12 and adding definitions; providing for license to grow
13 industrial hemp commercially; requiring application;
14 adding application requirements; authorizing license
15 holders to import seeds; clarifying statutory
16 language; modifying harvest report requirements;
17 updating statutory language; 63 O.S. 2011, Section 2-
18 101, as last amended by Section 11, Chapter 64,
19 O.S.L. 2018 (63 O.S. Supp. 2018, Section 2-101),
20 which relates to the Uniform Controlled Dangerous
21 Substances Act; modifying definition; updating
22 statutory reference; requiring the Oklahoma
23 Department of Agriculture, Food, and Forestry to
24 submit a plan; providing for codification; and
declaring an emergency.

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

SECTION 1. 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 2. AMENDATORY Section 2, Chapter 64, O.S.L. 2018
(2 O.S. Supp. 2018, Section 3-402), is amended to read as follows:

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

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

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

9 3. "Department plan" means a plan that is submitted to the
10 United States Secretary of Agriculture in consultation with the
11 Governor and the Office of the Attorney General;

12 4. "Grower licensee" means any individual who holds a valid
13 Industrial Hemp Grower License;

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

20 4. ~~"Licensee"~~ 6. "Institutional licensee" means a university
21 or an institution of higher education located in Oklahoma which
22 holds a valid Industrial Hemp License to grow industrial hemp under
23 the Oklahoma Industrial Hemp Agricultural ~~Pilot~~ Program. Nothing in
24 the Oklahoma Industrial Hemp Agricultural ~~Pilot~~ Program shall

1 prevent the licensee from adopting policies and procedures to
2 subcontract with persons or other legal entities to carry out the
3 purposes of the program; provided, that the Oklahoma Department of
4 Agriculture, Food, and Forestry shall ensure subcontractors comply
5 with the program requirements; ~~and~~

6 7. "Industrial Hemp Grower License" means authorization by the
7 Department for a person to grow and cultivate industrial hemp on a
8 registered land area for commercial purposes as part of the Oklahoma
9 Industrial Hemp Agricultural Program;

10 ~~5.~~ 8. "Industrial Hemp License" or "License" means
11 authorization by the Department for any university or an institution
12 of higher education in Oklahoma to grow and cultivate industrial
13 hemp on a registered land area for research and development purposes
14 as part of the Oklahoma Industrial Hemp Agricultural ~~Pilot~~ Program;

15 9. "Registered land" means the legal description of the land,
16 global positioning system location and map of the land area on which
17 the licensee will cultivate industrial hemp;

18 10. "Resident" means an individual who has had a primary
19 residence within the state for at least four (4) consecutive years;
20 and

21 11. "Testing" means a homogenous representation of the whole
22 industrial hemp plant to establish a delta-9 tetrahydrocannabinol
23 concentration of no more than three-tenths of one percent (0.3%) on
24 a dry weight basis.

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

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

5 1. Engage in the growth and cultivation of industrial hemp from
6 certified seeds for agricultural plant research and development
7 purposes; and

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

10 B. A grower licensee is authorized to engage in the growth and
11 cultivation of industrial hemp from certified seeds for commercial
12 purposes.

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

21 SECTION 4. AMENDATORY Section 4, Chapter 64, O.S.L. 2018
22 (2 O.S. Supp. 2018, Section 3-404), is amended to read as follows:

23 Section 3-404. A. A university or an institution of higher
24 education located in Oklahoma wishing to engage in industrial hemp

1 growth and cultivation authorized under the Oklahoma Industrial Hemp
2 Agricultural ~~Pilot~~ Program shall apply to the Oklahoma Department of
3 Agriculture, Food, and Forestry for a license prior to planting the
4 industrial hemp. A person wishing to engage in industrial hemp
5 growth and cultivation shall apply to the Department for an
6 Industrial Hemp Grower license prior to planting the industrial
7 hemp.

8 1. The application shall include:

- 9 a. the name and address of the grower or the university
10 or an institution of higher education,
11 b. the legal description, global positioning system
12 location, and map of the land area on which the
13 licensee will engage in industrial hemp growth and
14 cultivation operations,
15 c. a statement of intended end use, and
16 d. a statement that the institutional licensee or grower
17 licensee intends to plant only certified seeds,
18 e. a statement that the grower licensee is a resident,
19 f. the names of the grower licensee's employees, and
20 g. a statement from the grower licensee or institutional
21 licensee that no employees working on the registered
22 land does not have a felony conviction for violations
23 of the Controlled Dangerous Substances Act within ten
24

1 (10) years prior to the date of submission of the
2 application.

3 2. By submitting an application, the grower licensee or
4 institutional licensee acknowledges and agrees that:

- 5 a. information provided to the Department may be provided
- 6 to law enforcement agencies,
- 7 b. the licensee and any entities contracting with the
- 8 licensee shall allow and fully cooperate with any
- 9 inspection and sampling that the Department deems
- 10 necessary,
- 11 c. the licensee will submit all required reports by the
- 12 applicable due dates specified by the Department, and
- 13 d. the licensee has the legal right to cultivate
- 14 industrial hemp from certified seeds on the registered
- 15 land area and shall grant the Department access for
- 16 inspection and sampling.

17 B. The Department shall collect a nonrefundable fee from the
18 licensee at the time of application. The Department shall set a fee
19 schedule based on the size and use of the land area on which the
20 licensee will conduct industrial hemp growing or cultivation
21 operations and shall set the fee at a level sufficient to generate
22 the amount of monies necessary to cover the Department's direct
23 costs in implementing the Oklahoma Industrial Hemp Agricultural
24 ~~Pilot~~ Program. Denied applications for a license may be resubmitted

1 within a twelve-month period. The Department may waive the fee for
2 resubmitted applications.

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

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

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

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

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

4 SECTION 5. AMENDATORY Section 5, Chapter 64, O.S.L. 2018
5 (2 O.S. Supp. 2018, Section 3-405), is amended to read as follows:

6 Section 3-405. A. The Department shall establish a Certified
7 Seed Program to identify seeds that have been confirmed to produce
8 industrial hemp. In accordance with all federal state laws and
9 regulations, the Department, grower licensees and institutional
10 licensees may import seeds.

11 B. A variety of industrial hemp may be approved and certified
12 by the Department if it is tested and confirmed to produce mature
13 plants with a delta-9 tetrahydrocannabinol concentration of not more
14 than three-tenths of one percent (0.3%) on a dry-weight basis.

15 C. The Department shall provide and maintain a list of
16 certified seeds to be used by grower licensees and institutional
17 licensees.

18 SECTION 6. AMENDATORY Section 6, Chapter 64, O.S.L. 2018
19 (2 O.S. Supp. 2018, Section 3-406), is amended to read as follows:

20 Section 3-406. A. At least ~~thirty (30)~~ ten (10) days prior to
21 harvest, each grower licensee and institutional licensee shall file
22 a harvest report on a form approved by the Department that includes:

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

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

3 B. At least ten (10) days prior to harvest, each institutional
4 licensee shall file a harvest report on a form approved by the
5 Department that includes:

6 ~~3.~~ 1. The documented environmental impacts and viability of
7 each variety; and

8 ~~4.~~ 2. Research data that would assist the Department in future
9 commercialization of industrial hemp.

10 ~~B.~~ C. A grower licensee and institutional licensee shall notify
11 the Department immediately of any changes in a reported harvest date
12 by more than five (5) days.

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

15 Section 3-407. A. Any plants of the grower licensee and
16 institutional licensee are subject to routine inspection and
17 sampling to verify that the delta-9 tetrahydrocannabinol
18 concentration of the plants planted does not exceed three-tenths of
19 one percent (0.3%) on a dry-weight basis. The Department shall
20 notify each grower licensee and institutional licensee of the scope
21 of the inspection and the process by which the inspection will be
22 conducted.

23 B. In addition to any routine inspection and sampling under
24 subsection A of this section, the Department may inspect and take

1 samples from any grower licensee's and institutional licensee's
2 plants during normal business hours.

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

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

20 E. The Department shall promulgate rules to establish a process
21 by which a grower licensee or institutional licensee may contest the
22 procedures, protocols and results or findings of the inspection.

23 SECTION 8. AMENDATORY Section 8, Chapter 64, O.S.L. 2018
24 (2 O.S. Supp. 2018, Section 3-408), is amended to read as follows:

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

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

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

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

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

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

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

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

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

8 SECTION 9. AMENDATORY Section 9, Chapter 64, O.S.L. 2018
9 (2 O.S. Supp. 2018, Section 3-409), is amended to read as follows:

10 Section 3-409. The Department shall study the feasibility of
11 attracting federal and private funding to implement the Oklahoma
12 Industrial Hemp Agricultural ~~Pilot~~ Program.

13 SECTION 10. AMENDATORY Section 10, Chapter 64, O.S.L.
14 2018 (2 O.S. Supp. 2018, Section 3-410), is amended to read as
15 follows:

16 Section 3-410. There is hereby created in the State Treasury a
17 revolving fund for the State Board of Agriculture to be designated
18 the "Oklahoma Industrial Hemp Agricultural ~~Pilot~~ Program Fund". The
19 fund shall be a continuing fund, not subject to fiscal year
20 limitations and shall consist of all monies received by the State
21 Board of Agriculture from fees received and collected pursuant to
22 the Oklahoma Industrial Hemp Agricultural ~~Pilot~~ Program, donations,
23 grants, contributions and gifts from any public or private source.
24 The Board may expend funds for the purposes set forth in the

1 Oklahoma Industrial Hemp Agricultural ~~Pilot~~ Program. Expenditures
2 from ~~said~~ the fund shall be made upon warrants issued by the State
3 Treasurer against claims filed as prescribed by law with the
4 Director of the Office of Management and Enterprise Services for
5 approval and payment.

6 SECTION 11. AMENDATORY 63 O.S. 2011, Section 2-101, as
7 last amended by Section 11, Chapter 64, O.S.L. 2018 (63 O.S. Supp.
8 2018, Section 2-101), is amended to read as follows:

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

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

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

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

20 2. "Agent" means a peace officer appointed by and who acts on
21 behalf of the Director of the Oklahoma State Bureau of Narcotics and
22 Dangerous Drugs Control or an authorized person who acts on behalf
23 of or at the direction of a person who manufactures, distributes,
24 dispenses, prescribes, administers or uses for scientific purposes

1 controlled dangerous substances but does not include a common or
2 contract carrier, public warehouser or employee thereof, or a person
3 required to register under the Uniform Controlled Dangerous
4 Substances Act;

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

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

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

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

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

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

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

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

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

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

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

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

1 14. "Drug" means articles:

2 a. recognized in the official United States

3 Pharmacopoeia, official Homeopathic Pharmacopoeia of
4 the United States, or official National Formulary, or
5 any supplement to any of them,

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

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

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

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

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

23 16. "Home care agency" means any sole proprietorship,
24 partnership, association, corporation, or other organization which

1 administers, offers, or provides home care services, for a fee or
2 pursuant to a contract for such services, to clients in their place
3 of residence;

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

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

21 19. "Imitation controlled substance" means a substance that is
22 not a controlled dangerous substance, which by dosage unit
23 appearance, color, shape, size, markings or by representations made,
24 would lead a reasonable person to believe that the substance is a

1 controlled dangerous substance. In the event the appearance of the
2 dosage unit is not reasonably sufficient to establish that the
3 substance is an "imitation controlled substance", the court or
4 authority concerned should consider, in addition to all other
5 factors, the following factors as related to "representations made"
6 in determining whether the substance is an "imitation controlled
7 substance":

- 8 a. statements made by an owner or by any other person in
9 control of the substance concerning the nature of the
10 substance, or its use or effect,
- 11 b. statements made to the recipient that the substance
12 may be resold for inordinate profit,
- 13 c. whether the substance is packaged in a manner normally
14 used for illicit controlled substances,
- 15 d. evasive tactics or actions utilized by the owner or
16 person in control of the substance to avoid detection
17 by law enforcement authorities,
- 18 e. prior convictions, if any, of an owner, or any other
19 person in control of the object, under state or
20 federal law related to controlled substances or fraud,
21 and
- 22 f. the proximity of the substances to controlled
23 dangerous substances;

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

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

11 22. "Manufacture" means the production, preparation,
12 propagation, compounding or processing of a controlled dangerous
13 substance, either directly or indirectly by extraction from
14 substances of natural or synthetic origin, or independently by means
15 of chemical synthesis or by a combination of extraction and chemical
16 synthesis. "Manufacturer" includes any person who packages,
17 repackages or labels any container of any controlled dangerous
18 substance, except practitioners who dispense or compound
19 prescription orders for delivery to the ultimate consumer;

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

- 1 a. the mature stalks of such plant or fiber produced from
2 such stalks,
- 3 b. oil or cake made from the seeds of such plant,
4 including cannabidiol derived from the seeds of the
5 marijuana plant,
- 6 c. any other compound, manufacture, salt, derivative,
7 mixture or preparation of such mature stalks (except
8 the resin extracted therefrom), including cannabidiol
9 derived from mature stalks, fiber, oil or cake,
- 10 d. the sterilized seed of such plant which is incapable
11 of germination,
- 12 e. for any person participating in a clinical trial to
13 administer cannabidiol for the treatment of severe
14 forms of epilepsy pursuant to Section 2-802 of this
15 title, a drug or substance approved by the federal
16 Food and Drug Administration for use by those
17 participants,
- 18 f. for any person or the parents, legal guardians or
19 caretakers of the person who have received a written
20 certification from a physician licensed in this state
21 that the person has been diagnosed by a physician as
22 having Lennox-Gastaut Syndrome, Dravet Syndrome, also
23 known as Severe Myoclonic Epilepsy of Infancy, or any
24 other severe form of epilepsy that is not adequately

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

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

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

22 24. "Medical purpose" means an intention to utilize a
23 controlled dangerous substance for physical or mental treatment, for
24 diagnosis, or for the prevention of a disease condition not in

1 violation of any state or federal law and not for the purpose of
2 satisfying physiological or psychological dependence or other abuse;

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

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

- 16 a. opium, coca leaves and opiates,
17 b. a compound, manufacture, salt, derivative or
18 preparation of opium, coca leaves or opiates,
19 c. cocaine, its salts, optical and geometric isomers, and
20 salts of isomers,
21 d. ecgonine, its derivatives, their salts, isomers and
22 salts of isomers, and
23 e. a substance, and any compound, manufacture, salt,
24 derivative or preparation thereof, which is chemically

1 identical with any of the substances referred to in
2 subparagraphs a through d of this paragraph, except
3 that the words "narcotic drug" as used in Section 2-
4 101 et seq. of this title shall not include
5 decocainized coca leaves or extracts of coca leaves,
6 which extracts do not contain cocaine or ecgonine;

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

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

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

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

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

3 32. "Practitioner" means:

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

5 (2) a dentist,

6 (3) a podiatrist,

7 (4) an optometrist,

8 (5) a veterinarian,

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

11 (7) a scientific investigator, or

12 (8) any other person,

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

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

24

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

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

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

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

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

- 1 b. kits used, intended for use, or fashioned specifically
2 for use in manufacturing, compounding, converting,
3 producing, processing or preparing controlled
4 dangerous substances,
- 5 c. isomerization devices used, intended for use, or
6 fashioned specifically for use in increasing the
7 potency of any species of plant which is a controlled
8 dangerous substance,
- 9 d. testing equipment used, intended for use, or fashioned
10 specifically for use in identifying, or in analyzing
11 the strength, effectiveness or purity of controlled
12 dangerous substances,
- 13 e. scales and balances used, intended for use, or
14 fashioned specifically for use in weighing or
15 measuring controlled dangerous substances,
- 16 f. diluents and adulterants, such as quinine
17 hydrochloride, mannitol, mannite, dextrose and
18 lactose, used, intended for use, or fashioned
19 specifically for use in cutting controlled dangerous
20 substances,
- 21 g. separation gins and sifters used, intended for use, or
22 fashioned specifically for use in removing twigs and
23 seeds from, or in otherwise cleaning or refining,
24 marijuana,

- 1 h. blenders, bowls, containers, spoons and mixing devices
2 used, intended for use, or fashioned specifically for
3 use in compounding controlled dangerous substances,
- 4 i. capsules, balloons, envelopes and other containers
5 used, intended for use, or fashioned specifically for
6 use in packaging small quantities of controlled
7 dangerous substances,
- 8 j. containers and other objects used, intended for use,
9 or fashioned specifically for use in parenterally
10 injecting controlled dangerous substances into the
11 human body,
- 12 k. hypodermic syringes, needles and other objects used,
13 intended for use, or fashioned specifically for use in
14 parenterally injecting controlled dangerous substances
15 into the human body,
- 16 l. objects used, intended for use, or fashioned
17 specifically for use in ingesting, inhaling or
18 otherwise introducing marijuana, cocaine, hashish or
19 hashish oil into the human body, such as:
- 20 (1) metal, wooden, acrylic, glass, stone, plastic or
21 ceramic pipes with or without screens, permanent
22 screens, hashish heads or punctured metal bowls,
- 23 (2) water pipes,
- 24 (3) carburetion tubes and devices,

1 (4) smoking and carburetion masks,
2 (5) roach clips, meaning objects used to hold burning
3 material, such as a marijuana cigarette, that has
4 become too small or too short to be held in the
5 hand,
6 (6) miniature cocaine spoons and cocaine vials,
7 (7) chamber pipes,
8 (8) carburetor pipes,
9 (9) electric pipes,
10 (10) air-driven pipes,
11 (11) chillums,
12 (12) bong, or
13 (13) ice pipes or chillers,
14 m. all hidden or novelty pipes, and
15 n. any pipe that has a tobacco bowl or chamber of less
16 than one-half (1/2) inch in diameter in which there is
17 any detectable residue of any controlled dangerous
18 substance as defined in this section or any other
19 substances not legal for possession or use;
20 provided, however, the term "drug paraphernalia" shall not include
21 separation gins intended for use in preparing tea or spice, clamps
22 used for constructing electrical equipment, water pipes designed for
23 ornamentation in which no detectable amount of an illegal substance
24 is found or pipes designed and used solely for smoking tobacco,

1 traditional pipes of an American Indian tribal religious ceremony,
2 or antique pipes that are thirty (30) years of age or older;

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

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

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

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

22 b. The designation of gamma butyrolactone or any other
23 chemical as a precursor, pursuant to Section 2-322 of
24 this title, does not preclude a finding pursuant to

1 subparagraph a of this paragraph that the chemical is
2 a synthetic controlled substance.

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

4 (1) a controlled dangerous substance,

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

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

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

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

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

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

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

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

17 SECTION 12. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3-411 of Title 2, unless there
19 is created a duplication in numbering, reads as follows:

20 The Oklahoma Department of Agriculture, Food, and Forestry shall
21 submit the Department plan to the U.S. Secretary of Agriculture.
22 Plans shall include, but is not limited to the following
23 information:

24

1 1. A procedure to maintain relevant information regarding
2 registered land for a period of not less than three (3) calendar
3 years and contact information of grower licensees for submission to
4 the United States Secretary of Agriculture;

5 2. A procedure for testing industrial hemp for delta-9
6 tetrahydrocannabinol concentration on a dry weight basis using post-
7 decarboxylation or other similarly reliable methods;

8 3. A procedure for conducting annual inspections of, at a
9 minimum, a random sample of industrial hemp producers to verify that
10 the industrial hemp is not produced in violation of this act;

11 4. A procedure for the effective disposal of plants products
12 that are produced in violation of this act; and

13 5. A certification that the Department has the resources and
14 personnel to carry out the procedures identified in the Department
15 plan.

16 SECTION 13. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

20 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE
21 February 25, 2019 - DO PASS
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23
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