

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1185

By: Paxton

6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 63 O.S. 2011, Section 2-101, as last amended by
9 Section 1, Chapter 43, O.S.L. 2017 (63 O.S. Supp.
10 2017, Section 2-101), which relates to the Uniform
11 Controlled Dangerous Substances Act; removing
12 prohibition on the production of industrial hemp
13 under certain circumstances; creating the Oklahoma
14 Industrial Hemp Agricultural Pilot Program Act;
15 stating legislative intent; providing definitions;
16 allowing the growth, cultivation, and sale of
17 industrial hemp; requiring application and
18 registration with the Department of Agriculture,
19 Food, and Forestry; authorizing the Department to
20 promulgate rules; requiring the Department to
21 establish an industrial hemp grant research program;
22 establishing fee requirements; requiring submission
23 of annual report; authorizing the Department to
24 conduct inspections and collect samples for testing;
creating the Industrial Hemp Registration Program
Revolving Fund; creating the Industrial Hemp Research
Grant Revolving Fund; authorizing the Department to
suspend, deny, or revoke registration for violations;
providing penalties; providing for repeal if certain
conditions are met; providing for codification; and
providing an effective date.

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

22 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-101, as
23 last amended by Section 1, Chapter 43, O.S.L. 2017 (63 O.S. Supp.
24 2017, Section 2-101), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

23 10. "Deliver" or "delivery" means the actual, constructive or
24 attempted transfer from one person to another of a controlled

1 dangerous substance or drug paraphernalia, whether or not there is
2 an agency relationship;

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

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

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

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

17 14. "Drug" means articles:

- 18 a. recognized in the official United States
19 Pharmacopoeia, official Homeopathic Pharmacopoeia of
20 the United States, or official National Formulary, or
21 any supplement to any of them,
22 b. intended for use in the diagnosis, cure, mitigation,
23 treatment or prevention of disease in man or other
24 animals,

- 1 c. other than food, intended to affect the structure or
2 any function of the body of man or other animals, and
3 d. intended for use as a component of any article
4 specified in this paragraph;

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

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

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

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

22 18. "Hospice" means a centrally administered, nonprofit or
23 profit, medically directed, nurse-coordinated program which provides
24 a continuum of home and inpatient care for the terminally ill

1 patient and the patient's family. Such term shall also include a
2 centrally administered, nonprofit or profit, medically directed,
3 nurse-coordinated program if such program is licensed pursuant to
4 the provisions of this act. A hospice program offers palliative and
5 supportive care to meet the special needs arising out of the
6 physical, emotional and spiritual stresses which are experienced
7 during the final stages of illness and during dying and bereavement.
8 This care is available twenty-four (24) hours a day, seven (7) days
9 a week, and is provided on the basis of need, regardless of ability
10 to pay. "Class A" Hospice refers to Medicare certified hospices.
11 "Class B" refers to all other providers of hospice services;

12 19. "Imitation controlled substance" means a substance that is
13 not a controlled dangerous substance, which by dosage unit
14 appearance, color, shape, size, markings or by representations made,
15 would lead a reasonable person to believe that the substance is a
16 controlled dangerous substance. In the event the appearance of the
17 dosage unit is not reasonably sufficient to establish that the
18 substance is an "imitation controlled substance", the court or
19 authority concerned should consider, in addition to all other
20 factors, the following factors as related to "representations made"
21 in determining whether the substance is an "imitation controlled
22 substance":
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- a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, or its use or effect,
- b. statements made to the recipient that the substance may be resold for inordinate profit,
- c. whether the substance is packaged in a manner normally used for illicit controlled substances,
- d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,
- e. prior convictions, if any, of an owner, or any other person in control of the object, under state or federal law related to controlled substances or fraud, and
- f. the proximity of the substances to controlled dangerous substances;

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

21. "Laboratory" means a laboratory approved by the Director as proper to be entrusted with the custody of controlled dangerous

1 substances and the use of controlled dangerous substances for
2 scientific and medical purposes and for purposes of instruction;

3 22. "Manufacture" means the production, preparation,
4 propagation, compounding or processing of a controlled dangerous
5 substance, either directly or indirectly by extraction from
6 substances of natural or synthetic origin, or independently by means
7 of chemical synthesis or by a combination of extraction and chemical
8 synthesis. "Manufacturer" includes any person who packages,
9 repackages or labels any container of any controlled dangerous
10 substance, except practitioners who dispense or compound
11 prescription orders for delivery to the ultimate consumer;

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

- 17 a. the mature stalks of such plant or fiber produced from
18 such stalks,
- 19 b. oil or cake made from the seeds of such plant,
20 including cannabidiol derived from the seeds of the
21 marihuana plant,
- 22 c. any other compound, manufacture, salt, derivative,
23 mixture or preparation of such mature stalks (except
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- the resin extracted therefrom), including cannabidiol derived from mature stalks, fiber, oil or cake,
- d. the sterilized seed of such plant which is incapable of germination,
- e. for any person participating in a clinical trial to administer cannabidiol for the treatment of severe forms of epilepsy pursuant to Section 2-802 of this title, a drug or substance approved by the federal Food and Drug Administration for use by those participants,
- f. for any person or the parents, legal guardians or caretakers of the person who have received a written certification from a physician licensed in this state that the person has been diagnosed by a physician as having Lennox-Gastaut Syndrome, Dravet Syndrome, also known as Severe Myoclonic Epilepsy of Infancy, or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, spasticity due to multiple sclerosis or due to paraplegia, intractable nausea and vomiting, appetite stimulation with chronic wasting diseases, the substance cannabidiol, a nonpsychoactive cannabinoid, found in the plant *Cannabis sativa* L. or any other preparation thereof, that has a tetrahydrocannabinol concentration

1 of not more than three-tenths of one percent (0.3%)
2 and that is delivered to the patient in the form of a
3 liquid,

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

6 h. industrial hemp, from the plant Cannabis sativa L. and
7 any part of such plant, whether growing or not, with a
8 delta-9 tetrahydrocannabinol concentration of not more
9 than three-tenths of one percent (0.3%) on a dry
10 weight basis which ~~shall not~~ may be grown ~~anywhere~~ in
11 the State of Oklahoma ~~but may be shipped to Oklahoma~~
12 ~~pursuant to the provisions of subparagraph e or f of~~
13 ~~this paragraph~~ only as permitted under Sections 3
14 through 15 of this act;

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

20 25. "Mid-level practitioner" means an advanced practice nurse
21 as defined and within parameters specified in Section 567.3a of
22 Title 59 of the Oklahoma Statutes, or a certified animal euthanasia
23 technician as defined in Section 698.2 of Title 59 of the Oklahoma
24 Statutes, or an animal control officer registered by the Oklahoma

1 State Bureau of Narcotics and Dangerous Drugs Control under
2 subsection B of Section 2-301 of this title within the parameters of
3 such officer's duty under Sections 501 through 508 of Title 4 of the
4 Oklahoma Statutes;

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

- 9 a. opium, coca leaves and opiates,
- 10 b. a compound, manufacture, salt, derivative or
11 preparation of opium, coca leaves or opiates,
- 12 c. cocaine, its salts, optical and geometric isomers, and
13 salts of isomers,
- 14 d. ecgonine, its derivatives, their salts, isomers and
15 salts of isomers, and
- 16 e. a substance, and any compound, manufacture, salt,
17 derivative or preparation thereof, which is chemically
18 identical with any of the substances referred to in
19 subparagraphs a through d of this paragraph, except
20 that the words "narcotic drug" as used in Section 2-
21 101 et seq. of this title shall not include
22 decocainized coca leaves or extracts of coca leaves,
23 which extracts do not contain cocaine or ecgonine;
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1 27. "Opiate" means any substance having an addiction-forming or
2 addiction-sustaining liability similar to morphine or being capable
3 of conversion into a drug having such addiction-forming or
4 addiction-sustaining liability. It does not include, unless
5 specifically designated as controlled under the Uniform Controlled
6 Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-
7 methyl-morphinan and its salts (dextromethorphan). It does include
8 its racemic and levorotatory forms;

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

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

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

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

21 32. "Practitioner" means:

- 22 a. (1) a medical doctor or osteopathic physician,
23 (2) a dentist,
24 (3) a podiatrist,

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

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

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

23 35. "Ultimate user" means a person who lawfully possesses a
24 controlled dangerous substance for the person's own use or for the

1 use of a member of the person's household or for administration to
2 an animal owned by the person or by a member of the person's
3 household;

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

- 13 a. kits used, intended for use, or fashioned specifically
14 for use in planting, propagating, cultivating, growing
15 or harvesting of any species of plant which is a
16 controlled dangerous substance or from which a
17 controlled dangerous substance can be derived,
- 18 b. kits used, intended for use, or fashioned specifically
19 for use in manufacturing, compounding, converting,
20 producing, processing or preparing controlled
21 dangerous substances,
- 22 c. isomerization devices used, intended for use, or
23 fashioned specifically for use in increasing the
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- 1 potency of any species of plant which is a controlled
2 dangerous substance,
- 3 d. testing equipment used, intended for use, or fashioned
4 specifically for use in identifying, or in analyzing
5 the strength, effectiveness or purity of controlled
6 dangerous substances,
- 7 e. scales and balances used, intended for use, or
8 fashioned specifically for use in weighing or
9 measuring controlled dangerous substances,
- 10 f. diluents and adulterants, such as quinine
11 hydrochloride, mannitol, mannite, dextrose and
12 lactose, used, intended for use, or fashioned
13 specifically for use in cutting controlled dangerous
14 substances,
- 15 g. separation gins and sifters used, intended for use, or
16 fashioned specifically for use in removing twigs and
17 seeds from, or in otherwise cleaning or refining,
18 marihuana,
- 19 h. blenders, bowls, containers, spoons and mixing devices
20 used, intended for use, or fashioned specifically for
21 use in compounding controlled dangerous substances,
- 22 i. capsules, balloons, envelopes and other containers
23 used, intended for use, or fashioned specifically for
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1 use in packaging small quantities of controlled
2 dangerous substances,

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

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

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

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

18 (2) water pipes,

19 (3) carburetion tubes and devices,

20 (4) smoking and carburetion masks,

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

- (6) miniature cocaine spoons and cocaine vials,
- (7) chamber pipes,
- (8) carburetor pipes,
- (9) electric pipes,
- (10) air-driven pipes,
- (11) chillums,
- (12) bongs, or
- (13) ice pipes or chillers,

m. all hidden or novelty pipes, and

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

provided, however, the term "drug paraphernalia" shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for ornamentation in which no detectable amount of an illegal substance is found or pipes designed and used solely for smoking tobacco, traditional pipes of an American Indian tribal religious ceremony, or antique pipes that are thirty (30) years of age or older;

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

- 1 (1) the chemical structure of which is substantially
2 similar to the chemical structure of a controlled
3 dangerous substance in Schedule I or II,
4 (2) which has a stimulant, depressant, or
5 hallucinogenic effect on the central nervous
6 system that is substantially similar to or
7 greater than the stimulant, depressant or
8 hallucinogenic effect on the central nervous
9 system of a controlled dangerous substance in
10 Schedule I or II, or
11 (3) with respect to a particular person, which such
12 person represents or intends to have a stimulant,
13 depressant, or hallucinogenic effect on the
14 central nervous system that is substantially
15 similar to or greater than the stimulant,
16 depressant, or hallucinogenic effect on the
17 central nervous system of a controlled dangerous
18 substance in Schedule I or II.

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

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

- (1) a controlled dangerous substance,
- (2) any substance for which there is an approved new drug application,
- (3) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person under the provisions of Section 505 of the Federal Food, Drug and Cosmetic Act, Title 21 of the United States Code, Section 355, to the extent conduct with respect to such substance is pursuant to such exemption, or
- (4) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

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

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

39. "Isomer" means the optical isomer, except as used in subsections C and F of Section 2-204 of this title and paragraph 4

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

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

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

12 SECTION 2. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2-351 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 This act shall be known and may be cited as the "Oklahoma
16 Industrial Hemp Agricultural Pilot Program Act".

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2-352 of Title 63, unless there
19 is created a duplication in numbering, reads as follows:

20 A. The Legislature finds that:

21 1. Hemp is a useful and productive agricultural commodity, with
22 a history of cultivation in the United States predating Statehood.
23 Industrial Hemp has an extensive range of applications, including as
24 textiles, paper products, construction materials, cosmetic and

1 personal care products, food and nutritional products, craft beer
2 and other beverage products, health and wellness products, animal
3 feed and bedding, phytoremediation projects, and industrial
4 products;

5 2. Many countries around the world cultivate, process, and
6 market hemp, including Canada, China, and Great Britain;

7 3. Existing law allows the possession, use, and sale of many
8 hemp products in Oklahoma, but Oklahoma farmers are prevented from
9 growing or cultivating Industrial Hemp. Hemp products are currently
10 and stocked and sold on the shelves of many Oklahoma retailers;

11 4. To satisfy the demand of hemp products, presently estimated
12 to exceed Five Hundred Million Dollars (\$500,000,000.00), Oklahoma
13 companies must to obtain raw industrial hemp from outside of the
14 State, and often from foreign countries;

15 5. The Agricultural Act of 2014, codified at 7 U.S.C. § 5940,
16 loosened federal restrictions on the growth and cultivation of
17 industrial hemp, allowing growth and cultivation under state-created
18 agricultural pilot programs in states where the growth and
19 cultivation of industrial hemp is otherwise permitted under state
20 law;

21 6. In recent years, many states, including among them Alabama,
22 Colorado, Kentucky, Nebraska, North Carolina, North Dakota,
23 Tennessee, and many others, have legalized the growth and
24 cultivation of industrial hemp;

1 7. Oklahoma ranks fourth in the United States in number of
2 farms located within a state. However, existing state law obstructs
3 use of Oklahoma's renowned agricultural talent and resources to
4 discover, innovate, research, refine, and develop the accelerating
5 industrial hemp industry; and

6 8. It is a proper concern of this State to attempt to correct
7 or remedy the hindrances current state law presents to Oklahoma's
8 farmers, industry, and institutions of higher education.

9 B. It is the purpose of this act to:

10 1. Assist the State of Oklahoma in moving to the forefront of
11 industrial hemp production, research, development, and
12 commercialization of industrial hemp products to the greatest extent
13 possible;

14 2. Level the ground for opportunity for Oklahoma farmers,
15 industry, and institutions of higher education compared to their
16 counterparts in other states; and

17 3. Foster safe, responsible, and market-leading research and
18 development into the growth and cultivation of industrial hemp under
19 the agricultural pilot program established by this Act and
20 administered by the Oklahoma Department of Agriculture, Food, and
21 Forestry.

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2-353 of Title 63, unless there
24 is created a duplication in numbering, reads as follows:

1 As used in the Oklahoma Industrial Hemp Agricultural Pilot
2 Program Act:

3 1. "Certified Seed" means industrial hemp seed, including
4 Oklahoma Heritage Hemp Seed, that has been certified by an
5 organization recognized by the Department as having no more than
6 three-tenths of one percent (0.3%) delta-9 tetrahydrocannabinol
7 concentration on a dry-weight basis;

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

10 3. "Harvest" means the movement of industrial hemp from a
11 registered land area to another location or movement within a
12 registered land area between indoor and outdoor planting areas;

13 4. "Industrial hemp" means the plant *Cannabis sativa* L. and any
14 part of the plant, whether growing or not, with a delta-9
15 tetrahydrocannabinol concentration of not more than three-tenths of
16 one percent (0.3%) on a dry weight basis;

17 5. "Oklahoma Heritage Hemp Seed" means seed from an industrial
18 hemp plant that possesses characteristics of a unique and
19 specialized variety that is present in Oklahoma or has been
20 recognized as produced in Oklahoma;

21 6. "Registrant" means any institution of higher education or
22 any individual or legal entity under contract or lease with an
23 institution of higher education for purposes of agriculture research
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1 who holds a valid registration to grow industrial hemp under the
2 provisions of this act;

3 7. "Registration" means authorization by the Department for any
4 institution of higher education, or persons employed by or under a
5 production contract or lease with them to conduct such research, may
6 grow or cultivate industrial hemp on a registered land area as part
7 of the agricultural pilot program; and

8 8. "Variety" means a group of plants or an individual plant
9 that exhibits distinctive observable physical characteristics or has
10 a distinct genetic composition.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2-354 of Title 63, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Notwithstanding any other provision of law to the contrary,
15 a Registrant may:

16 1. Engage in the growth and cultivation of industrial hemp for
17 agriculture plant research and development purposes;

18 2. Engage in the growth and cultivation of industrial hemp for
19 marketing development purposes; and

20 3. Industrial hemp products may be sold in a state with an
21 agricultural pilot program or among states with agricultural pilot
22 programs, but not in states where such sale is prohibited.

23 B. If the person is acting in compliance with this act, then
24 notwithstanding any other provision of law, a registrant, or one

1 acting through, under, or providing services to a registrant, is not
2 subject to arrest, prosecution, seizure or forfeiture of property,
3 imposition of a penalty, or denial of a right or privilege solely
4 for engaging in the activities described in subsection A of this
5 section.

6 SECTION 6. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2-355 of Title 63, unless there
8 is created a duplication in numbering, reads as follows:

9 A. A person wishing to engage in industrial hemp growth and
10 cultivation allowed under this act shall apply to the Department for
11 a registration in a form and manner determined by the Department
12 prior to planting the industrial hemp. The application must
13 include:

14 1. The name and address of the applicant;

15 2. The legal description, global positioning system location,
16 and map of the land area on which the applicant plans to engage in
17 industrial hemp growth and cultivation operations;

18 3. A statement of intended end use; and

19 4. A statement that the applicant has reasonable grounds to
20 believe that the crop to be planted is of a type and variety that
21 will comply with the definition of industrial hemp.

22 B. By submitting an application, the applicant acknowledges and
23 agrees that:

24

1 1. Information provided to the Department may be provided to
2 law enforcement agencies;

3 2. The applicant will allow and fully cooperate with any
4 inspection and sampling that the Department deems necessary;

5 3. The applicant will pay for any inspection and laboratory
6 analysis costs that the Department deems necessary within thirty
7 (30) days of the date of the invoice;

8 4. The applicant will submit all required reports by the
9 applicable due-dates specified by the Department; and

10 5. The applicant has the legal right to cultivate industrial
11 hemp on the registered land area and the legal authority to grant
12 the Department access for inspection and sampling.

13 C. The applicant shall submit a criminal background check with
14 the application, which shall include a criminal history records
15 search conducted by the Oklahoma State Bureau of Investigation that
16 is not more than ninety (90) days old. An application shall not be
17 approved if the applicant has plead guilty or been convicted of a
18 felony under the federal Controlled Substances Act, Oklahoma's
19 Uniform Controlled Substances Act, or the equivalent statute of any
20 other state or territory.

21 D. The applicant shall also submit the fee required by Section
22 12 of this act to the Department. The Department has no obligation
23 to review the application until payment of the required fee.
24

1 E. If a person applies for registration in accordance with
2 subsection A of this section and the Department determines the
3 person has satisfied the requirement for registration pursuant to
4 this act, the Department shall issue a registration to the person.

5 F. A registration issued pursuant to this section is valid for
6 one year. In order to continue engaging in industrial hemp growth
7 and cultivation operations in Oklahoma, the registrant must annually
8 apply for a registration in accordance with subsection A of this
9 section.

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

15 H. If the registrant wishes to alter the land area on which the
16 registrant will conduct industrial hemp growth and cultivation
17 operations, before altering the area, the registrant shall submit to
18 the Department an updated legal description, global positioning
19 system location, and map specifying the proposed alterations.

20 I. The Department shall adopt rules by December 1, 2018, and as
21 necessary thereafter to implement the registration program and to
22 implement and administer the provisions of this act.

1 SECTION 7. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 2-356 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Department shall administer an industrial hemp grant
5 research program so that institutions of higher education may
6 conduct research, including but not limited to developing or
7 recreating strains of industrial hemp best suited for Oklahoma
8 growing conditions.

9 B. An institution of higher education that conducts industrial
10 hemp research may accept seed varieties that are approved by the
11 Department. The institution of higher education may work with
12 private industrial hemp developers and other stakeholders to conduct
13 research, including development of Oklahoma Heritage Hemp Seed.

14 C. In addition to the fees collected pursuant to Section 12 of
15 this act, the Department may collect an additional fee from each
16 registrant for the purpose of funding industrial hemp research and
17 certification programs, including by making grants to institutions
18 of higher education as specified in subsection A of this section.
19 The fees collected shall be deposited in the Industrial Hemp
20 Research Grant Revolving Fund created in Section 11 of this act.
21 The Department may solicit, apply for, and accept monies from other
22 sources for the grant program.

1 SECTION 8. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 2-357 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Department shall administer a certified seed program
5 that identifies seeds that have been confirmed to produce industrial
6 hemp. In accordance with all federal and state laws and
7 regulations, the Department may import seeds to develop the
8 certified seed program.

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

15 C. In addition to the registration fees required by Section 12
16 of this act, all registrants shall pay to the Department an
17 additional fee, established by the Department, for the purpose of
18 funding the costs of administering the Department's certified seed
19 program. The fees collected shall be deposited in the Industrial
20 Hemp Registration Program Revolving Fund created in Section 11 of
21 this act.

22 D. An applicant that submits a variety for approval under the
23 Department's certified seed program shall pay the testing costs
24 incurred by the Department.

SECTION 9. NEW LAW A new section of law to be codified

in the Oklahoma Statutes as Section 2-358 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Prior to planting, a registrant shall file, on a form approved by the Department, a Pre-Planting Report that includes:

1. A statement of verification that the registrant has reasonable grounds to believe that the crop the registrant will plant is of a type and variety that will produce a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis;

2. A description of the plant varieties to be planted on the registered land area and a map showing where they will be planted. All plant material to be used for growing and cultivation within a registered land area must be included; and

3. A statement of intended end use for all parts of any industrial hemp plants grown within a registered land area.

B. Within ten (10) days after planting, or further within ten (10) days after emergence of any volunteer industrial hemp plants in a registered land area that the registrant chooses to cultivate and not destroy, a registrant shall submit, on a form approved by the Department, a Planting Report that includes:

1. A list or description of all varieties of Industrial Hemp planted, or volunteer Industrial Hemp plants that have emerged and are not destroyed, within a registered land area; and

1 2. The location and actual acreage or square feet of each
2 variety of industrial hemp planted, or of volunteer industrial hemp
3 plants that have emerged and are not destroyed, within a registered
4 land area.

5 C. A planting report must be submitted any time industrial hemp
6 is planted in, moved within or moved into a registered land area,
7 except for replanting into larger containers within the same indoor
8 location.

9 D. At least thirty (30) days prior to harvest, each registrant
10 shall file a harvest report, on a form approved by the Department
11 that includes:

12 1. Documentation demonstrating that the registrant has entered
13 into a purchase agreement with an in-state industrial hemp
14 processor. If the registrant has not entered into such an
15 agreement, the registrant shall include a statement of intended
16 disposition of its industrial hemp crop; and

17 2. The harvest date or dates and the location of each variety
18 cultivated within a registered land area.

19 E. A registrant shall notify the Department immediately of any
20 changes in the reported harvest dates which change the harvest dates
21 by more than five (5) days. If any such changes are made, the
22 Department may require additional testing prior to harvest.

1 F. Each registrant shall report any changes to information
2 provided in the registration application or any previously submitted
3 reports within ten (10) days of such change.

4 G. At least annually, and more often as required by the
5 Department, a person who obtains a registration under this act shall
6 file a report with the Department that includes the following
7 information:

8 1. Documentation demonstrating that the registrant has entered
9 into a purchase agreement with an in-state industrial hemp
10 processor; and

11 2. Any other information required by the Department.

12 SECTION 10. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2-359 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 A. All Registrations are subject to routine inspection and
16 sampling to verify that the delta-9 tetrahydrocannabinol
17 concentration of the plants planted does not exceed three-tenths of
18 one percent (0.3%) on a dry weight basis. The Department shall
19 notify each registrant of the scope and process by which the
20 inspection will be conducted and require the registrant to conduct
21 the Department within seven (7) days to set a date and time for the
22 inspection to occur.

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 registrant's plants during normal business hours
2 without advance notice if there is reason to believe a violation of
3 this act may be occurring. The Department may also conduct such
4 additional inspection and sampling to verify compliance with the
5 reporting requirements of this act.

6 C. During an inspection and sampling, the registrant or an
7 authorized representative shall be present at the site of growing
8 and cultivation operations. The registrant or authorized
9 representative shall provide the Department's inspector with
10 complete and unrestricted access to all program plants, parts and
11 seeds, whether growing or harvested, and all land, buildings and
12 other structures used for the growth, cultivation, harvesting, or
13 storage of industrial hemp, and all documents and records pertaining
14 to the registrant's industrial hemp growing and cultivation
15 operation.

16 D. Fields planted with seed approved under the Department's
17 certified seed program may be inspected and sampled to confirm
18 consistency with the planting report. The Department may waive all
19 inspection or sampling costs if no inconsistencies or violations are
20 identified.

21 E. The Department shall adopt rules to establish a process by
22 which a registrant may contest the procedures, protocols, and
23 results or findings of the inspection.
24

1 SECTION 11. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-360 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. There is hereby created in the State Treasury a revolving
5 fund for the Department of Agriculture, Food, and Forestry to be
6 designated the "Industrial Hemp Registration Program Revolving
7 Fund". The fund shall be a continuing fund, not subject to fiscal
8 year limitations, and shall consist of all fees collected by the
9 State Board of Agriculture pursuant to Sections 8 and 12 of this
10 act, any state-appropriated funds, federal funds, donations, grants,
11 contributions, and gifts from any public or private source. All
12 monies accruing to the credit of said fund are hereby appropriated
13 and may be budgeted and expended by the State Board of Agriculture
14 for the purposes set forth in the Oklahoma Industrial Hemp
15 Agricultural Pilot Program Act. Expenditures from said fund shall
16 be made upon warrants issued by the State Treasurer against claims
17 filed as prescribed by law with the Director of the Office of
18 Management and Enterprise Services for approval and payment.

19 B. There is hereby created in the State Treasury a revolving
20 fund for the Department of Agriculture, Food, and Forestry to be
21 designated the "Industrial Hemp Research Grant Revolving Fund". The
22 fund shall be a continuing fund, not subject to fiscal year
23 limitations, and shall consist of all fees collected by the State
24 Board of Agriculture pursuant to Section 7 of this act, any state-

1 appropriated funds, federal funds, donations, grants, contributions,
2 and gifts from any public or private source. All monies accruing to
3 the credit of said fund are hereby appropriated and may be budgeted
4 and expended by the State Board of Agriculture for the purposes
5 administering the Industrial Hemp Research Grant Program set forth
6 in the Oklahoma Industrial Hemp Agricultural Pilot Program Act.
7 Expenditures from said fund shall be made upon warrants issued by
8 the State Treasurer against claims filed as prescribed by law with
9 the Director of the Office of Management and Enterprise Services for
10 approval and payment.

11 SECTION 12. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2-361 of Title 63, unless there
13 is created a duplication in numbering, reads as follows:

14 The Department shall collect a fee from persons applying for a
15 registration pursuant to the provisions of this act. The Department
16 shall set a fee schedule based on the size and use of the land area
17 on which the person will conduct industrial hemp growing or
18 cultivation operations and shall set the fee at a level sufficient
19 to generate the amount of monies necessary to cover the Department's
20 direct and indirect costs of implementing this act. Fees collected
21 pursuant to this section shall be deposited in the Industrial Hemp
22 Registration Program Revolving Fund.

23

24

1 SECTION 13. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-362 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Department may deny, revoke, or suspend a registration
5 if the applicant or registrant:

6 1. Violates any provision of this act or rules adopted pursuant
7 to this article;

8 2. Engages in fraud or deception in the procurement of or
9 attempt to procure a registration under this act or provides false
10 information on a registration 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 act;

15 5. Provides false, misleading, or incorrect information
16 pertaining to the registrant's cultivation of industrial hemp to the
17 Department by any means, including in information provided in any
18 application form, report, record or inspection required or
19 maintained for purposes of the act;

20 6. Fails to submit any report required by this act;

21 7. Fails to pay fees assessed by the Department for purposes of
22 this act; or

23 8. Fails to comply with any lawful order of the Commissioner of
24 Agriculture.

1 B. The Department may impose a civil penalty, not to exceed Two
2 Thousand Five Hundred Dollars (\$2,500.00) per violation, on any
3 person who violates this act or any rule adopted under this act.

4 C. The Department shall not impose a penalty against a person
5 alleged to have violated this act or a rule adopted under this act
6 until the commissioner has notified the person of the charge and has
7 given the person an opportunity for a hearing.

8 D. If the Department is unable to collect a civil penalty or if
9 a person fails to pay all or a portion of a civil penalty imposed
10 pursuant to this section, the Department may bring an action in a
11 court of competent jurisdiction to recover the civil penalty plus
12 attorney fees and costs.

13 E. Notwithstanding the fact that a sample of a registrant's
14 Industrial Hemp tests higher than three-tenths of one percent (0.3%)
15 but less than one percent (1%) delta-9 tetrahydrocannabinol
16 concentration, the registrant shall not be subject to any penalty
17 under the act if the crop is destroyed or utilized on site in a
18 manner approved of and verified by the Department.

19 SECTION 14. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2-363 of Title 63, unless there
21 is created a duplication in numbering, reads as follows:

22 A. Nothing in this act limits or precludes the exportation of
23 industrial hemp in accordance with the federal "Controlled
24 Substances Act", as amended, 21 U.S.C. sec. 801 et seq., federal

1 regulations adopted under the act, and case law interpreting the
2 act.

3 B. Notwithstanding any other provision of law, a person engaged
4 in processing, selling, transporting, possession, or otherwise
5 distributing industrial hemp cultivated by a person registered under
6 this article, or selling Industrial Hemp products produced
7 therefrom, is not subject to any civil or criminal actions under
8 Oklahoma law for engaging in such activities. The Department may
9 promulgate rules to require approved shipping documentation for the
10 transportation of industrial hemp.

11 SECTION 15. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2-364 of Title 63, unless there
13 is created a duplication in numbering, reads as follows:

14 A. This act shall be repealed if one of the following occurs:

15 1. The United States congress enacts, the president signs, and
16 the federal government implements federal law authorizing the United
17 States department of agriculture to regulate the cultivation and
18 research and development of industrial hemp; or

19 2. The Commissioner of Agriculture determines, in consultation
20 with the State Board of Agriculture that industrial hemp, as a
21 commodity in the market, is financially and economically stable, and
22 state regulation of industrial hemp cultivation is no longer
23 necessary.
24

1 B. Upon the occurrence of one of the conditions described in
2 subsection A of this section, the Department shall notify the
3 reviser of statutes, in writing, that one of the conditions has
4 occurred.

5 SECTION 16. This act shall become effective November 1, 2018.

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