STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 2913 By: Dollens and Echols

AS INTRODUCED

An Act relating to industrial hemp; creating the Oklahoma Industrial Hemp Agricultural Pilot Program; defining terms; authorizing a registrant to engage in the growth and cultivation of industrial hemp for certain purposes; limiting liability; requiring application to the Oklahoma Department of Agriculture, Food, and Forestry; providing application content requirements; providing certain acknowledgements and agreements upon application submission; requiring certain application fee; directing the Department to establish certain fee schedule; providing length of valid registration; providing registration renewal process; requiring activities be done with a valid registration; requiring certain plants not harvested or destroyed be declared; requiring submission of information for certain land alterations or changes to information; directing the Department to promulgate rules; directing the Department to establish a Certified Seed Program; allowing certain varieties of industrial hemp be approved; requiring the Department to maintain a list of certified seeds; requiring a harvest report; providing for routine inspection and sampling of plants of the registrant with certain notice; providing for additional inspection and sampling under certain conditions and circumstances; providing inspection procedure requirements; requiring the registrant to pay for inspection and lab analysis with exception; directing the Department to promulgate rules; authorizing denial, revocation or suspension of registration under certain circumstances; prohibiting penalty for certain sample testing levels; directing the Department to study certain funding possibilities; creating revolving fund; authorizing expenditures of funds under certain

conditions; amending 63 O.S. 2011, Section 2-101, as last amended by Section 1, Chapter 43, O.S.L. 2017 (63 O.S. Supp. 2017, Section 2-101), which relates to the Uniform Controlled Dangerous Substances Act; amending definition; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-401 of Title 2, unless there is created a duplication in numbering, reads as follows:

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-402 of Title 2, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Industrial Hemp Agricultural Pilot Program:

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

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

3. "Industrial hemp" means the plant Cannabis sativa L. and any part of the plant, whether growing or not, with a delta-9

tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis;

4. "Registrant" means a university located in Oklahoma which holds a valid registration to grow industrial hemp under the Oklahoma Industrial Hemp Agricultural Pilot Program. Nothing in the Oklahoma Industrial Hemp Agricultural Pilot Program shall prevent the registrant from adopting policies and procedures to subcontract with persons or other legal entities to carry out the purposes of the program; provided, that the registrant will remain liable for ensuring subcontractors compliance with the Program requirements; and

5. "Registration" means authorization by the Department for any university in Oklahoma to grow and cultivate industrial hemp on a registered land area for research and development purposes as part of the Oklahoma Industrial Hemp Agricultural Pilot Program.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-403 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. A registrant is authorized to:

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

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

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

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-404 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. A university located in Oklahoma wishing to engage in industrial hemp growth and cultivation authorized under the Oklahoma Industrial Hemp Agricultural Pilot Program shall apply to the Oklahoma Department of Agriculture, Food, and Forestry for registration prior to planting the industrial hemp.

1. The application shall include:

a. the name and address of the university,

b. the legal description, global positioning system location, and map of the land area on which the registrant will engage in industrial hemp growth and cultivation operations,

c. a statement of intended end use, and

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

2. By submitting an application, the registrant acknowledges and agrees that:

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

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

c. the registrant will submit all required reports by the applicable due-dates specified by the Department, and

d. the registrant has the legal right to cultivate industrial hemp from certified seeds on the registered land area and shall grant the Department access for inspection and sampling.

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

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

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

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

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

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

G. The Department shall promulgate rules necessary to implement the registration program and to implement the Oklahoma Industrial Hemp Agricultural Pilot Program.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-405 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The Department shall establish a Certified Seed Program to identify seeds that have been confirmed to produce industrial hemp. In accordance with all federal state laws and regulations, the Department may import seeds.

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

C. The Department shall provide and maintain a list of certified seeds to be used by registrants.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-406 of Title 2, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-407 of Title 2, unless there is created a duplication in numbering, reads as follows:

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

B. In addition to any routine inspection and sampling under subsection A of this section, the Department may inspect and take samples from any registrant's plants during normal business hours without advance notice if the Department, in its sole discretion,

has reason to believe a violation of the Oklahoma Industrial Hemp Agricultural Pilot Program may be occurring.

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

D. The registrant shall pay for any inspection and laboratory analysis costs that the Department deems necessary within thirty (30) days of the date of the receipt of an invoice for the costs. The Department shall waive all inspection or sampling costs if no inconsistencies or violations are identified.

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

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-408 of Title 2, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

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

B. If a sample of a registrant's industrial hemp tests higher than three-tenths of one percent (0.3%) but less than one percent (1%) delta-9 tetrahydrocannabinol concentration, the registrant

shall not be subject to any penalty under the Oklahoma Industrial Hemp Agricultural Pilot Program if the crop is destroyed or utilized on site in a manner approved of and verified by the Department.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-409 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Department shall study the feasibility of attracting federal and private funding to implement the Oklahoma Industrial Hemp Agricultural Pilot Program.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-410 of Title 2, unless there is created a duplication in numbering, reads as follows:

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

filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

SECTION 11. AMENDATORY 63 O.S. 2011, Section 2-101, as last amended by Section 1, Chapter 43, O.S.L. 2017 (63 O.S. Supp. 2017, Section 2-101), is amended to read as follows:

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

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

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

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

2. "Agent" means a peace officer appointed by and who acts on behalf of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or an authorized person who acts on behalf of or at the direction of a person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes controlled dangerous substances but does not include a common or contract carrier, public warehouser or employee thereof, or a person

required to register under the Uniform Controlled Dangerous Substances Act;

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

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

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

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

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

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

9. "Counterfeit substance" means a controlled substance which, or the container or labeling of which without authorization, bears

the trademark, trade name or other identifying marks, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance;

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

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

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

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

14. "Drug" means articles:

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

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

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

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

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

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

16. "Home care agency" means any sole proprietorship, partnership, association, corporation, or other organization which administers, offers, or provides home care services, for a fee or

pursuant to a contract for such services, to clients in their place of residence;

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

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

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

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

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

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

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

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

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

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

20. "Immediate precursor" means a substance which the Director has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is

an immediate chemical intermediary used, or likely to be used, in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail or limit such manufacture;

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

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

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

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

b. oil or cake made from the seeds of such plant, including cannabidiol derived from the seeds of the marihuana plant,

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

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

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

f. for any person or the parents, legal guardians or caretakers of the person who have received a written certification from a physician licensed in this state that the person has been diagnosed by a physician as having Lennox-Gastaut Syndrome, Dravet Syndrome, also known as Severe Myoclonic Epilepsy of Infancy, or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, spasticity due to multiple sclerosis or due to paraplegia,

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

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

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

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

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

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

a. opium, coca leaves and opiates,

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

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

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

e. a substance, and any compound, manufacture, salt, derivative or preparation thereof, which is chemically identical with any of the substances referred to in subparagraphs a through d of this paragraph, except

that the words "narcotic drug" as used in Section 2-101 et seq. of this title shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;

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

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

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

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

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

32. "Practitioner" means:

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

(2) a dentist,

(3) a podiatrist,

(4) an optometrist,

(5) a veterinarian,

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

(7) a scientific investigator, or

(8) any other person,

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

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

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

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

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

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

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

b. kits used, intended for use, or fashioned specifically for use in manufacturing, compounding, converting,

producing, processing or preparing controlled dangerous substances,

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

d. testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,

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

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

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

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

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

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

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

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

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

(2) water pipes,

(3) carburetion tubes and devices,

(4) smoking and carburetion masks,

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

(6) miniature cocaine spoons and cocaine vials,

(7) chamber pipes,

(8) carburetor pipes,

(9) electric pipes,

(10) air-driven pipes,

(11) chillums,

(12) bongs, or

(13) ice pipes or chillers,

m. all hidden or novelty pipes, and

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

provided, however, the term "drug paraphernalia" shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for ornamentation in which no detectable amount of an illegal substance is found or pipes designed and used solely for smoking tobacco,

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

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

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

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

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

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

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

c. "Synthetic controlled substance" does not include:

(1) a controlled dangerous substance,

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

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

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

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

38. "Tetrahydrocannabinols" means all substances that have been chemically synthesized to emulate the tetrahydrocannabinols of 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 of subsection A of Section 2-206 of this title. As used in subsections C and F of Section 2-204 of this title, "isomer" means the optical, positional or geometric isomer. As used in paragraph 4 of subsection A of Section 2-206 of this title, the term "isomer" means the optical or geometric isomer;

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

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

SECTION 12. This act shall become effective November 1, 2018.

56-2-9499 AMM 01/13/18