

1 ENGROSSED SENATE  
2 BILL NO. 868

By: Paxton of the Senate

3 and

4 Echols of the House  
5  
6

7 An Act relating to industrial hemp; amending 2 O.S.  
8 2011, Section 2-4, as last amended by Section 1,  
9 Chapter 199, O.S.L. 2018 (2 O.S. Supp. 2018, Section  
10 2-4), which relates to the powers of the State Board  
11 of Agriculture; authorizing the Board to submit and  
12 prepare plans for approval of the Oklahoma Industrial  
13 Hemp Program; amending Sections 1, 2, 3, 4, 6, 7, 8  
14 and 10, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018,  
15 Sections 3-401, 3-402, 3-403, 3-404, 3-406, 3-407, 3-  
16 408 and 3-410), which relate to the Oklahoma  
17 Industrial Hemp Agricultural Pilot Program; modifying  
18 the name of act; modifying, deleting and creating  
19 definitions; requiring license for the handling or  
20 processing of industrial hemp; clarifying statutory  
21 language; removing certified seed requirement;  
22 expanding qualified applicants; requiring licensee to  
23 maintain certain records; prohibiting the granting of  
24 licenses to certain individuals; requiring the  
Department of Agriculture, Food, and Forestry to  
promulgate rules to facilitate transportation;  
striking requirement of the Department to establish a  
certified seed program; removing certain requirements  
in harvest report; modifying frequency of  
inspections; requiring the Department to promulgate  
rules for inspection and sampling procedures and  
disposal methods; providing that violations of the  
program are not subject to criminal enforcement;  
amending 63 O.S. 2011, Section 2-101, as last amended  
by Section 11, Chapter 64, O.S.L. 2018 (63 O.S. Supp.  
2018, Section 2-101), which relates to the Uniform  
Controlled Dangerous Substances Act; modifying  
definition; prohibiting the production of cannabidiol  
from federally illegal sources; repealing Sections 5  
and 9, Chapter 64, O.S.L. 2018 (2 O.S. Supp. 2018,  
Sections 3-405 and 3-409), which relate to the

Oklahoma Industrial Hemp Agricultural Pilot Program;  
authorizing the Department to promulgate emergency  
rules; providing for codification; providing for  
noncodification; and declaring an emergency.

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

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

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

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

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

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

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

5. Consolidate any of the divisions established by the Oklahoma  
Agricultural Code, transfer any of the functions or activities to

1 another division, place additional functions or activities in a  
2 division, establish new divisions, and create new or additional  
3 positions in the Department, when conducive to a more efficient  
4 administration and enforcement of laws pertaining to agriculture;

5 6. Sell, exchange, or dispose of property;

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

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

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

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

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

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

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

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

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

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

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

22                    (1) commercial manufacturers of fertilizers, grain  
23 and feed products, and chemicals, and over  
24 manufacturing of food and kindred products,

1 tobacco, paper, lumber, wood, textile mill, and  
2 other agricultural products,

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

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

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

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

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

23 19. Stagger throughout the year the renewal dates for any  
24 licenses or permits issued by the Department pursuant to the

1 provisions of the Oklahoma Agricultural Code by notifying licensees  
2 in writing of the expiration and renewal date being assigned to the  
3 licensee and permittee and by making an appropriate adjustment in  
4 the fee charged for the license or permit;

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

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

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

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

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

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

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

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

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

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

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

22       31. Promulgate rules regarding prescribed burning and smoke  
23 management;

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

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

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

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

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

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

21       B. 1. If upon inspection or investigation, or whenever the  
22 Oklahoma Department of Agriculture, Food, and Forestry determines  
23 that there are reasonable grounds to believe that any person is in  
24 violation of any part of the Oklahoma Environmental Quality Code



1 which is the responsibility and jurisdiction of the Oklahoma  
2 Department of Agriculture, Food, and Forestry, any rule promulgated  
3 by the State Board of Agriculture, or of any order, permit,  
4 certificate, registration, charter, or license issued by the Board,  
5 the Department may give written notice to the alleged violator of  
6 the specific violation and of the alleged violator's duty to correct  
7 the violation immediately or within a set time period or both and  
8 that the failure to do so shall result in administrative fines or  
9 penalties.

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

22 SECTION 2. AMENDATORY Section 1, Chapter 64, O.S.L. 2018  
23 (2 O.S. Supp. 2018, Section 3-401), is amended to read as follows:  
24

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

3       SECTION 3.       AMENDATORY       Section 2, Chapter 64, O.S.L. 2018  
4 (2 O.S. Supp. 2018, Section 3-402), is amended to read as follows:

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

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

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

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

20       3. "Industrial hemp" means the plant Cannabis sativa L. and any  
21 part of the plant, including the seeds thereof, and all derivatives,  
22 extracts, cannabinoids, isomers, acids, salts and salts of isomers,  
23 whether growing or not, with a delta-9 tetrahydrocannabinol

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

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

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

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

21 SECTION 4. AMENDATORY Section 3, Chapter 64, O.S.L. 2018  
22 (2 O.S. Supp. 2018, Section 3-403), is amended to read as follows:

23 Section 3-403. A. A licensee is authorized to÷  
24

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

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

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

14       SECTION 5.       AMENDATORY       Section 4, Chapter 64, O.S.L. 2018  
15 (2 O.S. Supp. 2018, Section 3-404), is amended to read as follows:

16       Section 3-404. A. A ~~university or an institution of higher~~  
17 ~~education located in Oklahoma wishing~~ person intending to engage in  
18 industrial hemp growth ~~and,~~ cultivation, handling or processing  
19 authorized under the Oklahoma Industrial Hemp ~~Agricultural Pilot~~  
20 Program shall apply to the Oklahoma Department of Agriculture, Food,  
21 and Forestry for a license prior to planting, handling or processing  
22 the industrial hemp.

23       1. The application shall include:  
24

- a. the name and address of the ~~university or an~~  
~~institution of higher education~~ applicant,
- b. the legal description, global positioning system  
location, and map of the land area on which the  
~~licensee~~ applicant will engage in industrial hemp  
growth and cultivation operations, handling operations  
or processing operations, and
- c. a statement of intended end use, ~~and~~
- ~~d. a statement that the licensee intends to plant only~~  
~~certified seeds.~~

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

- a. information provided to the Department may be provided  
to law enforcement agencies,
- b. the ~~licensee and any entities contracting with the~~  
~~licensee~~ applicant shall allow and fully cooperate  
with any inspection and sampling that the Department  
deems necessary,
- c. the ~~licensee~~ applicant will submit all required  
reports by the applicable due dates specified by the  
Department, and
- d. the ~~licensee~~ applicant has the legal right to  
cultivate, handle or process industrial hemp ~~from~~  
~~certified seeds~~ on the registered land area and shall

1 grant the Department access for inspection and  
2 sampling.

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

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

19 D. All industrial hemp plant material shall be planted, grown  
20 and harvested under a valid license. Any plant material that is not  
21 harvested in the license period in which it was planted or volunteer  
22 plants that are not destroyed must be declared for inclusion in a  
23 subsequent license.  
24

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

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

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

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

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

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

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

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

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

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

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

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

9        SECTION 7.        AMENDATORY        Section 7, Chapter 64, O.S.L. 2018  
10 (2 O.S. Supp. 2018, Section 3-407), is amended to read as follows:

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

20        B. ~~In addition to any routine inspection and sampling under~~  
21 ~~subsection A of this section, the~~ The Department may inspect and  
22 take samples from any licensee's plants during normal business  
23 hours.  
24



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

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

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

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

21        SECTION 8.        AMENDATORY        Section 8, Chapter 64, O.S.L. 2018  
22 (2 O.S. Supp. 2018, Section 3-408), is amended to read as follows:

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

1. Violates any provision of the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program or rules adopted pursuant to the program;
2. Engages in fraud or deception in the procurement of or attempt to procure a license under this Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program or provides false information on a license application;
3. Refuses or fails to cooperate and assist the Department with the inspection process;
4. Refuses or fails to provide any information required or requested by the Department for purposes of the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program;
5. Knowingly provides false, misleading or incorrect information pertaining to the licensee's cultivation, handling or processing of industrial hemp to the Department by any means, including information provided in any application form, report, record or inspection required or maintained for purposes of the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program;
6. Fails to submit any report required by the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program; or
7. Fails to pay fees required by the Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program.

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

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

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

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

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

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

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

Section 3-410. There is hereby created in the State Treasury a revolving fund for the State Board of Agriculture to be designated the "Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program Fund". The

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

12 SECTION 10. AMENDATORY 63 O.S. 2011, Section 2-101, as  
13 last amended by Section 11, Chapter 64, O.S.L. 2018 (63 O.S. Supp.  
14 2018, Section 2-101), is amended to read as follows:

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

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

21 a. a practitioner (or, in the presence of the  
22 practitioner, by the authorized agent of the  
23 practitioner), or  
24

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;

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

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

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

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

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

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

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

8        14. "Drug" means articles:

9            a. recognized in the official United States

10            Pharmacopoeia, official Homeopathic Pharmacopoeia of  
11            the United States, or official National Formulary, or  
12            any supplement to any of them,

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

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

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

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

22        15. "Drug-dependent person" means a person who is using a  
23 controlled dangerous substance and who is in a state of psychic or  
24 physical dependence, or both, arising from administration of that

1 controlled dangerous substance on a continuous basis. Drug  
2 dependence is characterized by behavioral and other responses which  
3 include a strong compulsion to take the substance on a continuous  
4 basis in order to experience its psychic effects, or to avoid the  
5 discomfort of its absence;

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

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

13 18. "Hospice" means a centrally administered, nonprofit or  
14 profit, medically directed, nurse-coordinated program which provides  
15 a continuum of home and inpatient care for the terminally ill  
16 patient and the patient's family. Such term shall also include a  
17 centrally administered, nonprofit or profit, medically directed,  
18 nurse-coordinated program if such program is licensed pursuant to  
19 the provisions of ~~this act~~ Section 2-101 et seq. of this title. A  
20 hospice program offers palliative and supportive care to meet the  
21 special needs arising out of the physical, emotional and spiritual  
22 stresses which are experienced during the final stages of illness  
23 and during dying and bereavement. This care is available twenty-  
24 four (24) hours a day, seven (7) days a week, and is provided on the



1 basis of need, regardless of ability to pay. "Class A" Hospice  
2 refers to Medicare certified hospices. "Class B" refers to all  
3 other providers of hospice services;

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

- 15 a. statements made by an owner or by any other person in  
16 control of the substance concerning the nature of the  
17 substance, or its use or effect,
- 18 b. statements made to the recipient that the substance  
19 may be resold for inordinate profit,
- 20 c. whether the substance is packaged in a manner normally  
21 used for illicit controlled substances,
- 22 d. evasive tactics or actions utilized by the owner or  
23 person in control of the substance to avoid detection  
24 by law enforcement authorities,

- 1           e.   prior convictions, if any, of an owner, or any other  
2               person in control of the object, under state or  
3               federal law related to controlled substances or fraud,  
4               and  
5           f.   the proximity of the substances to controlled  
6               dangerous substances;

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

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

17       22.   "Manufacture" means the production, preparation,  
18   propagation, compounding or processing of a controlled dangerous  
19   substance, either directly or indirectly by extraction from  
20   substances of natural or synthetic origin, or independently by means  
21   of chemical synthesis or by a combination of extraction and chemical  
22   synthesis.   "Manufacturer" includes any person who packages,  
23   repackages or labels any container of any controlled dangerous  
24

1 substance, except practitioners who dispense or compound  
2 prescription orders for delivery to the ultimate consumer;

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

- 8 a. the mature stalks of such plant or fiber produced from  
9 such stalks,
- 10 b. oil or cake made from the seeds of such plant,  
11 including cannabidiol derived from the seeds of the  
12 ~~marijuana~~ industrial hemp plant,
- 13 c. any other compound, manufacture, salt, derivative,  
14 mixture or preparation of such mature stalks (except  
15 the resin extracted therefrom), including cannabidiol  
16 derived from mature stalks, fiber, oil or cake of the  
17 industrial hemp plant,
- 18 d. the sterilized seed of such plant which is incapable  
19 of germination,
- 20 e. for any person participating in a clinical trial to  
21 administer cannabidiol for the treatment of severe  
22 forms of epilepsy pursuant to Section 2-802 of this  
23 title, a drug or substance approved by the federal  
24

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

1           than three-tenths of one percent (0.3%) on a dry  
2           weight basis which shall only be grown pursuant to the  
3           Oklahoma Industrial Hemp ~~Agricultural Pilot~~ Program  
4           and may be shipped ~~to Oklahoma pursuant to the~~  
5           ~~provisions of subparagraph e or f of this paragraph~~  
6           intrastate and interstate;

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

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

21          26. "Narcotic drug" means any of the following, whether  
22          produced directly or indirectly by extraction from substances of  
23          vegetable origin, or independently by means of chemical synthesis,  
24          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;

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

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

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

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

13       32. "Practitioner" means:

- 14       a.    (1)    a medical doctor or osteopathic physician,  
15                (2)    a dentist,  
16                (3)    a podiatrist,  
17                (4)    an optometrist,  
18                (5)    a veterinarian,  
19                (6)    a physician assistant under the supervision of a  
20                        licensed medical doctor or osteopathic physician,  
21                (7)    a scientific investigator, or  
22                (8)    any other person,  
23                licensed, registered or otherwise permitted to  
24                prescribe, distribute, dispense, conduct research with

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

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

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

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

20       36. "Drug paraphernalia" means all equipment, products and  
21       materials of any kind which are used, intended for use, or fashioned  
22       specifically for use in planting, propagating, cultivating, growing,  
23       harvesting, manufacturing, compounding, converting, producing,  
24       processing, preparing, testing, analyzing, packaging, repackaging,



1 storing, containing, concealing, injecting, ingesting, inhaling or  
2 otherwise introducing into the human body, a controlled dangerous  
3 substance in violation of the Uniform Controlled Dangerous  
4 Substances Act including, but not limited to:

- 5       a.   kits used, intended for use, or fashioned specifically  
6           for use in planting, propagating, cultivating, growing  
7           or harvesting of any species of plant which is a  
8           controlled dangerous substance or from which a  
9           controlled dangerous substance can be derived,
- 10       b.   kits used, intended for use, or fashioned specifically  
11           for use in manufacturing, compounding, converting,  
12           producing, processing or preparing controlled  
13           dangerous substances,
- 14       c.   isomerization devices used, intended for use, or  
15           fashioned specifically for use in increasing the  
16           potency of any species of plant which is a controlled  
17           dangerous substance,
- 18       d.   testing equipment used, intended for use, or fashioned  
19           specifically for use in identifying, or in analyzing  
20           the strength, effectiveness or purity of controlled  
21           dangerous substances,
- 22       e.   scales and balances used, intended for use, or  
23           fashioned specifically for use in weighing or  
24           measuring controlled dangerous substances,

- 1 f. diluents and adulterants, such as quinine  
2 hydrochloride, mannitol, mannite, dextrose and  
3 lactose, used, intended for use, or fashioned  
4 specifically for use in cutting controlled dangerous  
5 substances,
- 6 g. separation gins and sifters used, intended for use, or  
7 fashioned specifically for use in removing twigs and  
8 seeds from, or in otherwise cleaning or refining,  
9 marijuana,
- 10 h. blenders, bowls, containers, spoons and mixing devices  
11 used, intended for use, or fashioned specifically for  
12 use in compounding controlled dangerous substances,
- 13 i. capsules, balloons, envelopes and other containers  
14 used, intended for use, or fashioned specifically for  
15 use in packaging small quantities of controlled  
16 dangerous substances,
- 17 j. containers and other objects used, intended for use,  
18 or fashioned specifically for use in parenterally  
19 injecting controlled dangerous substances into the  
20 human body,
- 21 k. hypodermic syringes, needles and other objects used,  
22 intended for use, or fashioned specifically for use in  
23 parenterally injecting controlled dangerous substances  
24 into the human body,

1. objects used, intended for use, or fashioned specifically for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
- (1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,
  - (2) water pipes,
  - (3) carburetion tubes and devices,
  - (4) smoking and carburetion masks,
  - (5) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand,
  - (6) miniature cocaine spoons and cocaine vials,
  - (7) chamber pipes,
  - (8) carburetor pipes,
  - (9) electric pipes,
  - (10) air-driven pipes,
  - (11) chillums,
  - (12) bongs, or
  - (13) ice pipes or chillers,
- m. all hidden or novelty pipes, and

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

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

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

- 14                   (1)   the chemical structure of which is substantially  
15                           similar to the chemical structure of a controlled  
16                           dangerous substance in Schedule I or II,  
17                   (2)   which has a stimulant, depressant, or  
18                           hallucinogenic effect on the central nervous  
19                           system that is substantially similar to or  
20                           greater than the stimulant, depressant or  
21                           hallucinogenic effect on the central nervous  
22                           system of a controlled dangerous substance in  
23                           Schedule I or II, or  
24

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

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

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

- 15 (1) a controlled dangerous substance,  
16 (2) any substance for which there is an approved new  
17 drug application,  
18 (3) with respect to a particular person any  
19 substance, if an exemption is in effect for  
20 investigational use, for that person under the  
21 provisions of Section 505 of the Federal Food,  
22 Drug and Cosmetic Act, Title 21 of the United  
23 States Code, Section 355, to the extent conduct  
24

1 with respect to such substance is pursuant to  
2 such exemption, or

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

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

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

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

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

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

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

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

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

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

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

16        SECTION 14. 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.

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

2  
3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2019.

7  
8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives