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5 BILL NO. 868 By: Paxton and Dahm of the  
Senate

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7 | Echols of the House

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

1 division of the Oklahoma Department of Agriculture, Food, and  
2 Forestry;

3 5. Consolidate any of the divisions established by the Oklahoma  
4 Agricultural Code, transfer any of the functions or activities to  
5 another division, place additional functions or activities in a  
6 division, establish new divisions, and create new or additional  
7 positions in the Department, when conducive to a more efficient  
8 administration and enforcement of laws pertaining to agriculture;

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

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

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

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

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

18 11. Accept and use grants of money and other property from any  
19 source;

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

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

24

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

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

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

1           a.    The Department of Environmental Quality shall have  
2                environmental jurisdiction over:

3                (1)   commercial manufacturers of fertilizers, grain  
4                    and feed products, and chemicals, and over  
5                    manufacturing of food and kindred products,  
6                    tobacco, paper, lumber, wood, textile mill, and  
7                    other agricultural products,

8                (2)   slaughterhouses, but not including feedlots at  
9                    these facilities, and

10              (3)   aquaculture and fish hatcheries, including, but  
11                  not limited to, discharges of pollutants and  
12                  storm water to waters of the state, surface  
13                  impoundments and land application of wastes and  
14                  sludge, and other pollution originating at these  
15                  facilities.

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

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

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

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

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

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

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

22       23. Promulgate rules, make investigations, and conduct hearings  
23 for the purpose of making inspection compulsory on any agricultural  
24

1 commodity and designate the shipping points where compulsory  
2 inspection applies;

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

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

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

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

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

23

24

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

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

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

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

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

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

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

21       36. Issue certificates of free sale for any products or items  
22 within the jurisdiction of the Oklahoma Department of Agriculture,  
23 Food, and Forestry; and  
24



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 1. The application shall include:

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

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

- 18 a. information provided to the Department may be provided  
19 to law enforcement agencies,
- 20 b. the ~~licensee and any entities contracting with the~~  
21 ~~licensee~~ applicant shall allow and fully cooperate  
22 with any inspection and sampling that the Department  
23 deems necessary,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

22       6.   Fails to submit any report required by the Oklahoma  
23 Industrial Hemp ~~Agricultural Pilot~~ Program; or  
24

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

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

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

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

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

20        D. Any person convicted of a felony relating to a controlled  
21 substance under state or federal law shall be ineligible during the  
22 ten-year period following the date of conviction to participate in  
23 this program.  
24

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 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 10. AMENDATORY 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), 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 14. "Drug" means articles:

- 14 a. recognized in the official United States  
15 Pharmacopoeia, official Homeopathic Pharmacopoeia of  
16 the United States, or official National Formulary, or  
17 any supplement to any of them,  
18 b. intended for use in the diagnosis, cure, mitigation,  
19 treatment or prevention of disease in man or other  
20 animals,  
21 c. other than food, intended to affect the structure or  
22 any function of the body of man or other animals, and  
23 d. intended for use as a component of any article  
24 specified in this paragraph;

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

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

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

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

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



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

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

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

- 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 32. "Practitioner" means:

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

(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



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

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

- 12 a. kits used, intended for use, or fashioned specifically  
13 for use in planting, propagating, cultivating, growing  
14 or harvesting of any species of plant which is a  
15 controlled dangerous substance or from which a  
16 controlled dangerous substance can be derived,
- 17 b. kits used, intended for use, or fashioned specifically  
18 for use in manufacturing, compounding, converting,  
19 producing, processing or preparing controlled  
20 dangerous substances,
- 21 c. isomerization devices used, intended for use, or  
22 fashioned specifically for use in increasing the  
23 potency of any species of plant which is a controlled  
24 dangerous substance,

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

- 1           j.    containers and other objects used, intended for use,  
2                or fashioned specifically for use in parenterally  
3                injecting controlled dangerous substances into the  
4                human body,
- 5           k.    hypodermic syringes, needles and other objects used,  
6                intended for use, or fashioned specifically for use in  
7                parenterally injecting controlled dangerous substances  
8                into the human body,
- 9           l.    objects used, intended for use, or fashioned  
10               specifically for use in ingesting, inhaling or  
11               otherwise introducing marijuana, cocaine, hashish or  
12               hashish oil into the human body, such as:
- 13               (1)  metal, wooden, acrylic, glass, stone, plastic or  
14                    ceramic pipes with or without screens, permanent  
15                    screens, hashish heads or punctured metal bowls,  
16               (2)  water pipes,  
17               (3)  carburetion tubes and devices,  
18               (4)  smoking and carburetion masks,  
19               (5)  roach clips, meaning objects used to hold burning  
20                    material, such as a marijuana cigarette, that has  
21                    become too small or too short to be held in the  
22                    hand,  
23               (6)  miniature cocaine spoons and cocaine vials,  
24               (7)  chamber pipes,

- 1                   (8) carburetor pipes,  
2                   (9) electric pipes,  
3                   (10) air-driven pipes,  
4                   (11) chillums,  
5                   (12) bongs, or  
6                   (13) ice pipes or chillers,  
7        m. all hidden or novelty pipes, and  
8        n. any pipe that has a tobacco bowl or chamber of less  
9            than one-half (1/2) inch in diameter in which there is  
10           any detectable residue of any controlled dangerous  
11           substance as defined in this section or any other  
12           substances not legal for possession or use;

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

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

- 21                   (1) the chemical structure of which is substantially  
22                         similar to the chemical structure of a controlled  
23                   dangerous substance in Schedule I or II,  
24

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

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

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

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

22 (1) a controlled dangerous substance,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.  
3

4 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,  
5 dated 04/01/2019 - DO PASS, As Coauthored.  
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