

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 3439

By: Kerbs

COMMITTEE SUBSTITUTE

An Act relating to industrial hemp; amending 2 O.S. 2021, Sections 3-402, 3-403, and 3-408, which relate to the Oklahoma Industrial Hemp Program; modifying definitions; allowing licensee to remediate noncompliant industrial hemp; providing guidelines for location of remediation testing and time frame; providing that licensee may sell industrial hemp grain and other industrial hemp derivatives; providing that the Oklahoma Conservation Commission shall have jurisdiction over the creation and verification of carbon credits from the Oklahoma Industrial Hemp Program; providing that the Commission shall develop rules to implement the pilot carbon credit verification and trading program specific to Oklahoma industrial hemp; providing that for certain delta-9 tetrahydrocannabinol concentrations testing levels the licensee shall not be subject to any penalty if the crop is destroyed or remediated; amending 63 O.S. 2021, Section 2-101, which relates to the Uniform Controlled Dangerous Substances Act; modifying the definition of tetrahydrocannabinols to include industrial hemp; and declaring an emergency.

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

SECTION 1. AMENDATORY 2 O.S. 2021, Section 3-402, is amended to read as follows:

Section 3-402. As used in the Oklahoma Industrial Hemp Program:

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

2. "Fiber" means the stalk of the industrial hemp plant and does not include the flower or seeds of the plant;

3. "Flower" means the part of the industrial hemp plant that contains the majority of the industrial hemp plant's tetrahydrocannabinol and other cannabinoids;

4. "Grain" means all of the parts of an industrial hemp plant except the stalk or the flower of the industrial hemp plant;

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

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

1 ~~4.~~ 7. "Licensee" means a person who holds a valid Industrial
2 Hemp License to grow industrial hemp under the Oklahoma Industrial
3 Hemp Program. A licensee shall have the ability to remediate
4 noncompliant industrial hemp with a delta-9 tetrahydrocannabinol
5 concentration of not more than one percent (1.0%) on a dry-weight
6 basis for retesting as set forth by the Department as long as the
7 noncompliant industrial hemp has a delta-9 tetrahydrocannabinol
8 concentration of not more than three-tenths of one percent (0.3%) on
9 a dry-weight basis after retesting, and the option to remediate the
10 industrial hemp through the reasonable destruction of the flower or
11 shredding of the entire lot into a homogeneous biomass results in
12 the remediation of any part of the industrial hemp plant that is
13 above three-tenths of one percent (0.3%) on a dry-weight basis. All
14 noncompliant hemp must be tracked and documented. The State Board
15 of Agriculture shall have jurisdiction over said remediation, which
16 includes, but is not limited to, destruction through composting,
17 burning, or other regulated disposal methods if the industrial hemp
18 is not remediated into a final product before processing below
19 three-tenths of one percent (0.3%) on a dry-weight basis;

20 ~~5.~~ 8. "License" means authorization by the Department for any
21 person to grow and cultivate industrial hemp on a registered land
22 area as part of the Oklahoma Industrial Hemp Program; and
23
24

1 ~~6.~~ 9. "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 2. AMENDATORY 2 O.S. 2021, Section 3-403, is
5 amended to read as follows:

6 Section 3-403. A. 1. A licensee is authorized to engage in
7 the growth, cultivation, handling or processing of industrial hemp
8 and may remediate noncompliant industrial hemp with a delta-9
9 tetrahydrocannabinol concentration of not more than one percent
10 (1.0%) on a dry-weight basis and prepare for retesting as set forth
11 by the Department as long as the noncompliant industrial hemp has a
12 delta-9 tetrahydrocannabinol concentration of not more than three-
13 tenths of one percent (0.3%) on a dry-weight basis after retesting,
14 or all or part of the product is disposed of in the process of
15 remediation so that only a compliant product (with a delta-9
16 tetrahydrocannabinol concentration of not more than three-tenths of
17 one percent (0.3%) on a dry-weight basis) is left, or all disposable
18 waste is destroyed following a remediation process.

19 2. A remediation facility shall be an option of the remediation
20 process. The licensee may remediate any noncompliant industrial
21 hemp at its own facilities, affiliated facilities, or third-party
22 facilities as long as these facilities are licensed and approved by
23 the State Board of Agriculture as a remediation facility. The State
24 Board of Agriculture shall be notified before any noncompliant

1 industrial hemp is transported to a remediation facility. Retesting
2 of any noncompliant industrial hemp shall be done within sixty (60)
3 days post-harvest. Within seven (7) days of receiving notice of a
4 measured tetrahydrocannabinol concentration that exceeds the
5 acceptable hemp tetrahydrocannabinol level but is less than one
6 percent (1.0%), the licensed grower shall consent to the destruction
7 of all cannabis from that lot, or he or she may request remediation
8 and a post-harvest retest in a homogenized form in accordance with
9 the procedures established by the State Board of Agriculture. A
10 measured tetrahydrocannabinol concentration that exceeds one percent
11 (1.0%) shall require the licensed grower to properly dispose of all
12 cannabis from that lot. The retest fee shall be paid in an amount
13 established by the State Board of Agriculture. Samples with a
14 measured tetrahydrocannabinol concentration of one percent (1.0%) or
15 greater shall not be eligible for a post-harvest retest or
16 remediation and shall be destroyed.

17 3. Licensees are allowed to sell industrial hemp grain and
18 other industrial hemp derivatives that are either grown or processed
19 in the State of Oklahoma, that do not include the flower, for the
20 purpose of livestock feed and other animal consumption in the State
21 of Oklahoma.

22 4. The Oklahoma Conservation Commission shall have jurisdiction
23 over the creation and verification of carbon credits from the
24 Oklahoma Industrial Hemp Program. The Oklahoma Conservation

1 Commission shall develop rules to implement a pilot carbon credit
2 verification and trading program specific to Oklahoma industrial
3 hemp, and the Oklahoma Conservation Commission shall have the
4 authority and jurisdiction to approve and recognize other voluntary
5 programs for verification of carbon credits. These rules shall be
6 in place within sixty (60) days of the effective date of this act.

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

14 SECTION 3. AMENDATORY 2 O.S. 2021, Section 3-408, is
15 amended to read as follows:

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

18 1. Violates any provision of the Oklahoma Industrial Hemp
19 Program or rules adopted pursuant to the program;

20 2. Engages in fraud or deception in the procurement of or
21 attempt to procure a license under ~~this~~ the Oklahoma Industrial Hemp
22 Program or provides false information on a license application;

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

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

4 5. Knowingly provides false, misleading or incorrect
5 information pertaining to the licensee's cultivation, handling or
6 processing of industrial hemp to the Department by any means,
7 including information provided in any application form, report,
8 record or inspection required or maintained for purposes of the
9 Oklahoma Industrial Hemp Program;

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

12 7. Fails to pay fees required by the Oklahoma Industrial Hemp
13 Program.

14 B. 1. ~~A licensee that negligently violates the provisions of~~
15 ~~the Oklahoma Industrial Hemp Program shall not be subject to a~~
16 ~~criminal enforcement action~~ If a sample of a licensee's industrial
17 hemp tests higher than three-tenths of one percent (0.3%) but less
18 than one percent (1.0%) on a dry-weight basis for delta-9
19 tetrahydrocannabinol concentration, the licensee shall not be
20 subject to any penalty under the Oklahoma Industrial Hemp Program if
21 the crop is destroyed or remediated.

22 2. A licensee that negligently violates the provisions of the
23 Oklahoma Industrial Hemp Program three times in any five-year period
24 shall be ineligible to obtain a license pursuant to the Oklahoma

1 Industrial Hemp Program for a period of five (5) years beginning on
2 the date of the third violation.

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

7 SECTION 4. AMENDATORY 63 O.S. 2021, Section 2-101, is
8 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 14. "Drug" means articles:

- 2 a. recognized in the official United States Pharmacopeia,
3 official Homeopathic Pharmacopoeia of the United
4 States, or official National Formulary, or any
5 supplement to any of them,
6 b. intended for use in the diagnosis, cure, mitigation,
7 treatment or prevention of disease in man or other
8 animals,
9 c. other than food, intended to affect the structure or
10 any function of the body of man or other animals, and
11 d. intended for use as a component of any article
12 specified in this paragraph;

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. the mature stalks of such plant or fiber produced from such stalks,
- b. oil or cake made from the seeds of such plant, including cannabidiol derived from the seeds of the marijuana plant,
- c. any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), including cannabidiol derived from mature stalks, fiber, oil or cake,
- d. the sterilized seed of such plant which is incapable of germination,
- e. for any person participating in a clinical trial to administer cannabidiol for the treatment of severe forms of epilepsy pursuant to Section 2-802 of this title, a drug or substance approved by the federal Food and Drug Administration for use by those participants,
- f. for any person or the parents, legal guardians or caretakers of the person who have received a written certification from a physician licensed in this state that the person has been diagnosed by a physician as having Lennox-Gastaut syndrome, Dravet syndrome, also known as severe myoclonic epilepsy of infancy, or any other severe form of epilepsy that is not adequately

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

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

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

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

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

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

- 14 a. opium, coca leaves and opiates,
- 15 b. a compound, manufacture, salt, derivative or
16 preparation of opium, coca leaves or opiates,
- 17 c. cocaine, its salts, optical and geometric isomers, and
18 salts of isomers,
- 19 d. ecgonine, its derivatives, their salts, isomers and
20 salts of isomers, and
- 21 e. a substance, and any compound, manufacture, salt,
22 derivative or preparation thereof, which is chemically
23 identical with any of the substances referred to in
24 subparagraphs a through d of this paragraph, except

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

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

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

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

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

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

3 32. "Practitioner" means:

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

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

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

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

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

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

- b. kits used, intended for use, or fashioned specifically for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,
- c. isomerization devices used, intended for use, or fashioned specifically for use in increasing the potency of any species of plant which is a controlled dangerous substance,
- d. testing equipment used, intended for use, or fashioned specifically for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,
- e. scales and balances used, intended for use, or fashioned specifically for use in weighing or measuring controlled dangerous substances,
- f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or fashioned specifically for use in cutting controlled dangerous substances,
- g. separation gins and sifters used, intended for use, or fashioned specifically for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana,

- h. blenders, bowls, containers, spoons and mixing devices used, intended for use, or fashioned specifically for use in compounding controlled dangerous substances,
- i. capsules, balloons, envelopes and other containers used, intended for use, or fashioned specifically for use in packaging small quantities of controlled dangerous substances,
- j. containers and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,
- k. hypodermic syringes, needles and other objects used, intended for use, or fashioned specifically for use in parenterally injecting controlled dangerous substances into the human body,
- l. objects used, intended for use, or fashioned specifically for use in ingesting, inhaling or otherwise introducing 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
- n. any pipe that has a tobacco bowl or chamber of less than one-half (1/2) inch in diameter in which there is any detectable residue of any controlled dangerous substance as defined in this section or any other substances not legal for possession or use;
- provided, however, the term "drug paraphernalia" shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for ornamentation in which no detectable amount of an illegal substance is found or pipes designed and used solely for smoking tobacco,

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

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

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

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

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

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

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

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

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

1 marijuana, specifically including any tetrahydrocannabinols derived
2 from industrial hemp;

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

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

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

16 42. "Acute pain" means pain, whether resulting from disease,
17 accidental or intentional trauma or other cause, that the
18 practitioner reasonably expects to last only a short period of time.
19 "Acute pain" does not include chronic pain, pain being treated as
20 part of cancer care, hospice or other end-of-life care, or pain
21 being treated as part of palliative care;

22 43. "Chronic pain" means pain that persists beyond the usual
23 course of an acute disease or healing of an injury. "Chronic pain"
24 may or may not be associated with an acute or chronic pathologic

1 process that causes continuous or intermittent pain over months or
2 years;

3 44. "Initial prescription" means a prescription issued to a
4 patient who:

- 5 a. has never previously been issued a prescription for
6 the drug or its pharmaceutical equivalent in the past
7 year, or
- 8 b. requires a prescription for the drug or its
9 pharmaceutical equivalent due to a surgical procedure
10 or new acute event and has previously had a
11 prescription for the drug or its pharmaceutical
12 equivalent within the past year.

13 When determining whether a patient was previously issued a
14 prescription for a drug or its pharmaceutical equivalent, the
15 practitioner shall consult with the patient and review the medical
16 record and prescription monitoring information of the patient;

17 45. "Patient-provider agreement" means a written contract or
18 agreement that is executed between a practitioner and a patient,
19 prior to the commencement of treatment for chronic pain using an
20 opioid drug as a means to:

- 21 a. explain the possible risk of development of physical
22 or psychological dependence in the patient and prevent
23 the possible development of addiction,

- b. document the understanding of both the practitioner and the patient regarding the patient-provider agreement of the patient,
- c. establish the rights of the patient in association with treatment and the obligations of the patient in relation to the responsible use, discontinuation of use, and storage of opioid drugs, including any restrictions on the refill of prescriptions or the acceptance of opioid prescriptions from practitioners,
- d. identify the specific medications and other modes of treatment, including physical therapy or exercise, relaxation or psychological counseling, that are included as a part of the patient-provider agreement,
- e. specify the measures the practitioner may employ to monitor the compliance of the patient including, but not limited to, random specimen screens and pill counts, and
- f. delineate the process for terminating the agreement, including the consequences if the practitioner has reason to believe that the patient is not complying with the terms of the agreement. Compliance with the "consent items" shall constitute a valid, informed consent for opioid therapy. The practitioner shall be held harmless from civil litigation for failure to

1 treat pain if the event occurs because of nonadherence
2 by the patient with any of the provisions of the
3 patient-provider agreement;

4 46. "Serious illness" means a medical illness or physical
5 injury or condition that substantially affects quality of life for
6 more than a short period of time. "Serious illness" includes, but
7 is not limited to, Alzheimer's disease or related dementias, lung
8 disease, cancer, heart failure, renal failure, liver failure or
9 chronic, unremitting or intractable pain such as neuropathic pain;
10 and

11 47. "Surgical procedure" means a procedure that is performed
12 for the purpose of structurally altering the human body by incision
13 or destruction of tissues as part of the practice of medicine. This
14 term includes the diagnostic or therapeutic treatment of conditions
15 or disease processes by use of instruments such as lasers,
16 ultrasound, ionizing, radiation, scalpels, probes or needles that
17 cause localized alteration or transportation of live human tissue by
18 cutting, burning, vaporizing, freezing, suturing, probing or
19 manipulating by closed reduction for major dislocations or
20 fractures, or otherwise altering by any mechanical, thermal, light-
21 based, electromagnetic or chemical means.

22 SECTION 5. 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 58-2-10880 JL 03/02/22

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24