

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 3439

By: Kerbs of the House

and

Kidd of the Senate

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 for certain delta-9 tetrahydrocannabinol concentration 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, as last amended by Section 1, Chapter 222, O.S.L. 2021, 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;

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

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

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

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

15 ~~3.~~ 6. "Industrial hemp" means the plant Cannabis sativa L. and
16 any part of the plant, including the seeds thereof, and all
17 derivatives, extracts, cannabinoids, isomers, acids, salts and salts
18 of isomers, whether growing or not, with a delta-9
19 tetrahydrocannabinol concentration of not more than three-tenths of
20 one percent (0.3%) on a dry-weight basis;

21 ~~4.~~ 7. "Licensee" means a person who holds a valid Industrial
22 Hemp License to grow industrial hemp under the Oklahoma Industrial
23 Hemp Program. A licensee shall have the ability to remediate
24 noncompliant industrial hemp with a delta-9 tetrahydrocannabinol

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

16 ~~5.~~ 8. "License" means authorization by the Department for any
17 person to grow and cultivate industrial hemp on a registered land
18 area as part of the Oklahoma Industrial Hemp Program; and

19 ~~6.~~ 9. "Processing" means converting industrial hemp into a
20 marketable form, including the production of all derivatives,
21 extracts, cannabinoids, isomers, acids, salts and salts of isomers.

22 SECTION 2. AMENDATORY 2 O.S. 2021, Section 3-403, is
23 amended to read as follows:
24

1 Section 3-403. A. 1. A licensee is authorized to engage in
2 the growth, cultivation, handling or processing of industrial hemp
3 and may remediate noncompliant industrial hemp with a delta-9
4 tetrahydrocannabinol concentration of not more than one percent
5 (1.0%) on a dry-weight basis and prepare for retesting as set forth
6 by the Department as long as the noncompliant industrial hemp has a
7 delta-9 tetrahydrocannabinol concentration of not more than three-
8 tenths of one percent (0.3%) on a dry-weight basis after retesting,
9 or all or part of the product is disposed of in the process of
10 remediation so that only a compliant product (with a delta-9
11 tetrahydrocannabinol concentration of not more than three-tenths of
12 one percent (0.3%) on a dry-weight basis) is left, or all disposable
13 waste is destroyed following a remediation process.

14 2. A remediation facility shall be an option of the remediation
15 process. The licensee may remediate any noncompliant industrial
16 hemp at its own facilities, affiliated facilities, or third-party
17 facilities as long as these facilities are licensed and approved by
18 the State Board of Agriculture as a remediation facility. The State
19 Board of Agriculture shall be notified before any noncompliant
20 industrial hemp is transported to a remediation facility. Retesting
21 of any noncompliant industrial hemp shall be done within sixty (60)
22 days post-harvest. Within seven (7) days of receiving notice of a
23 measured tetrahydrocannabinol concentration that exceeds the
24 acceptable hemp tetrahydrocannabinol level but is less than one

1 percent (1.0%), the licensed grower shall consent to the destruction
2 of all cannabis from that lot, or he or she may request remediation
3 and a post-harvest retest in a homogenized form in accordance with
4 the procedures established by the State Board of Agriculture. A
5 measured tetrahydrocannabinol concentration that exceeds one percent
6 (1.0%) shall require the licensed grower to properly dispose of all
7 cannabis from that lot. The retest fee shall be paid in an amount
8 established by the State Board of Agriculture. Samples with a
9 measured tetrahydrocannabinol concentration of one percent (1.0%) or
10 greater shall not be eligible for a post-harvest retest or
11 remediation and shall be destroyed.

12 3. Licensees are allowed to sell industrial hemp grain and
13 other industrial hemp derivatives that are either grown or processed
14 in this state, that do not include the flower, for the purpose of
15 livestock feed and other animal consumption in this state.

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

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

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

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

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

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

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

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

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

21 7. Fails to pay fees required by the Oklahoma Industrial Hemp
22 Program.

23 B. 1. ~~A licensee that negligently violates the provisions of~~
24 ~~the Oklahoma Industrial Hemp Program shall not be subject to a~~

~~criminal enforcement action~~ If a sample of a licensee's industrial hemp tests higher than three-tenths of one percent (0.3%) but less than one percent (1.0%) on a dry-weight basis for delta-9 tetrahydrocannabinol concentration, the licensee shall not be subject to any penalty under the Oklahoma Industrial Hemp Program if the crop is destroyed or remediated.

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

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

SECTION 4. AMENDATORY 63 O.S. 2021, Section 2-101, as last amended by Section 1, Chapter 222, O.S.L. 2021, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

21 11. "Dispense" means to deliver a controlled dangerous
22 substance to an ultimate user or human research subject by or
23 pursuant to the lawful order of a practitioner, including the
24 prescribing, administering, packaging, labeling or compounding

1 necessary to prepare the substance for such distribution.

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

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

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

11 14. "Drug" means articles:

12 a. recognized in the official United States Pharmacopeia,
13 official Homeopathic Pharmacopoeia of the United
14 States, or official National Formulary, or any
15 supplement to any of them,

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

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

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

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

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

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

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

16 18. "Hospice" means a centrally administered, nonprofit or for-
17 profit, medically directed, nurse-coordinated program which provides
18 a continuum of home and inpatient care for the terminally ill
19 patient and the patient's family. Such term shall also include a
20 centrally administered, nonprofit or for-profit, medically directed,
21 nurse-coordinated program if such program is licensed pursuant to
22 the provisions of the Uniform Controlled Dangerous Substances Act.
23 A hospice program offers palliative and supportive care to meet the
24 special needs arising out of the physical, emotional and spiritual

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

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

- 18 a. statements made by an owner or by any other person in
19 control of the substance concerning the nature of the
20 substance, or its use or effect,
- 21 b. statements made to the recipient that the substance
22 may be resold for inordinate profit,
- 23 c. whether the substance is packaged in a manner normally
24 used for illicit controlled substances,

- d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,
- e. prior convictions, if any, of an owner, or any other person in control of the object, under state or federal law related to controlled substances or fraud, and
- f. the proximity of the substances to controlled dangerous substances;

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

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

22. "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis or by a combination of extraction and chemical

1 synthesis. "Manufacturer" includes any person who packages,
2 repackages or labels any container of any controlled dangerous
3 substance, except practitioners who dispense or compound
4 prescription orders for delivery to the ultimate consumer;

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

- 10 a. the mature stalks of such plant or fiber produced from
11 such stalks,
- 12 b. oil or cake made from the seeds of such plant~~7~~
13 including cannabidiol derived from the seeds of the
14 marijuana plant,
- 15 c. any other compound, manufacture, salt, derivative,
16 mixture or preparation of such mature stalks (except
17 the resin extracted therefrom)~~7~~ including cannabidiol
18 derived from mature stalks, fiber, oil or cake,
- 19 d. the sterilized seed of such plant which is incapable
20 of germination,
- 21 e. for any person participating in a clinical trial to
22 administer cannabidiol for the treatment of severe
23 forms of epilepsy pursuant to Section 2-802 of this
24 title, a drug or substance approved by the federal

Food and Drug Administration for use by those participants,

- f. for any person or the parents, legal guardians or caretakers of the person who have received a written certification from a physician licensed in this state that the person has been diagnosed by a physician as having Lennox-Gastaut syndrome, Dravet syndrome, also known as severe myoclonic epilepsy of infancy, or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, spasticity due to multiple sclerosis or due to paraplegia, intractable nausea and vomiting, appetite stimulation with chronic wasting diseases, the substance cannabidiol, a nonpsychoactive cannabinoid, found in the plant *Cannabis sativa* L. or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid,
- g. any federal Food-and-Drug-Administration-approved drug or substance, or
- h. industrial hemp, from the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more

1 than three-tenths of one percent (0.3%) on a ~~dry~~
2 ~~weight~~ dry-weight basis which shall only be grown
3 pursuant to the Oklahoma Industrial Hemp Program and
4 may be shipped intrastate and interstate;

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

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

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

23 a. opium, coca leaves and opiates,
24

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

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

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

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

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

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

13 32. "Practitioner" means:

- 14 a. (1) a medical doctor or osteopathic physician,
15 (2) a dentist,
16 (3) a podiatrist,
17 (4) an optometrist,
18 (5) a veterinarian,
19 (6) a physician assistant or Advanced Practice
20 Registered Nurse under the supervision of a
21 licensed medical doctor or osteopathic physician,
22 (7) a scientific investigator, or
23 (8) any other person,
24

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

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

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

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

22 36. "Drug paraphernalia" means all equipment, products and
23 materials of any kind which are used, intended for use, or fashioned
24 specifically for use in planting, propagating, cultivating, growing,

1 harvesting, manufacturing, compounding, converting, producing,
2 processing, preparing, testing, analyzing, packaging, repackaging,
3 storing, containing, concealing, injecting, ingesting, inhaling or
4 otherwise introducing into the human body, a controlled dangerous
5 substance in violation of the Uniform Controlled Dangerous
6 Substances Act including, but not limited to:

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

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

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

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

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

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

1 system of a controlled dangerous substance in
2 Schedule I or II, or

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

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

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

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

1 States Code, Section 355, to the extent conduct
2 with respect to such substance is pursuant to
3 such exemption, or

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

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

12 38. "Tetrahydrocannabinols" means all substances that have been
13 chemically synthesized to emulate the tetrahydrocannabinols of
14 marijuana, specifically including any tetrahydrocannabinols derived
15 from industrial hemp;

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

23 40. "Hazardous materials" means materials, whether solid,
24 liquid or gas, which are toxic to human, animal, aquatic or plant

1 life, and the disposal of which materials is controlled by state or
2 federal guidelines;

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

5 42. "Acute pain" means pain, whether resulting from disease,
6 accidental or intentional trauma or other cause, that the
7 practitioner reasonably expects to last only a short period of time.
8 "Acute pain" does not include chronic pain, pain being treated as
9 part of cancer care, hospice or other end-of-life care, or pain
10 being treated as part of palliative care;

11 43. "Chronic pain" means pain that persists beyond the usual
12 course of an acute disease or healing of an injury. "Chronic pain"
13 may or may not be associated with an acute or chronic pathologic
14 process that causes continuous or intermittent pain over months or
15 years;

16 44. "Initial prescription" means a prescription issued to a
17 patient who:

- 18 a. has never previously been issued a prescription for
19 the drug or its pharmaceutical equivalent in the past
20 year, or
21 b. requires a prescription for the drug or its
22 pharmaceutical equivalent due to a surgical procedure
23 or new acute event and has previously had a
24

1 prescription for the drug or its pharmaceutical
2 equivalent within the past year.

3 When determining whether a patient was previously issued a
4 prescription for a drug or its pharmaceutical equivalent, the
5 practitioner shall consult with the patient and review the medical
6 record and prescription monitoring information of the patient;

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

- 11 a. explain the possible risk of development of physical
12 or psychological dependence in the patient and prevent
13 the possible development of addiction,
- 14 b. document the understanding of both the practitioner
15 and the patient regarding the patient-provider
16 agreement of the patient,
- 17 c. establish the rights of the patient in association
18 with treatment and the obligations of the patient in
19 relation to the responsible use, discontinuation of
20 use, and storage of opioid drugs, including any
21 restrictions on the refill of prescriptions or the
22 acceptance of opioid prescriptions from practitioners,
- 23 d. identify the specific medications and other modes of
24 treatment, including physical therapy or exercise,

- 1 relaxation or psychological counseling, that are
2 included as a part of the patient-provider agreement,
3 e. specify the measures the practitioner may employ to
4 monitor the compliance of the patient including, but
5 not limited to, random specimen screens and pill
6 counts, and
7 f. delineate the process for terminating the agreement,
8 including the consequences if the practitioner has
9 reason to believe that the patient is not complying
10 with the terms of the agreement. Compliance with the
11 "consent items" shall constitute a valid, informed
12 consent for opioid therapy. The practitioner shall be
13 held harmless from civil litigation for failure to
14 treat pain if the event occurs because of nonadherence
15 by the patient with any of the provisions of the
16 patient-provider agreement;

17 46. "Serious illness" means a medical illness or physical
18 injury or condition that substantially affects quality of life for
19 more than a short period of time. "Serious illness" includes, but
20 is not limited to, Alzheimer's disease or related dementias, lung
21 disease, cancer, heart failure, renal failure, liver failure or
22 chronic, unremitting or intractable pain such as neuropathic pain;
23 and
24

1 47. "Surgical procedure" means a procedure that is performed
2 for the purpose of structurally altering the human body by incision
3 or destruction of tissues as part of the practice of medicine. This
4 term includes the diagnostic or therapeutic treatment of conditions
5 or disease processes by use of instruments such as lasers,
6 ultrasound, ionizing, radiation, scalpels, probes or needles that
7 cause localized alteration or transportation of live human tissue by
8 cutting, burning, vaporizing, freezing, suturing, probing or
9 manipulating by closed reduction for major dislocations or
10 fractures, or otherwise altering by any mechanical, thermal, light-
11 based, electromagnetic or chemical means.

12 SECTION 5. It being immediately necessary for the preservation
13 of the public peace, health or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

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