

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 441

By: Helton

AS INTRODUCED

An Act relating to controlled dangerous substance; amending 22 O.S. 1991, Section 751, as last amended by Section 1, Chapter 55, O.S.L. 1999 (22 O.S. Supp. 2000, Section 751), which relates to admission of findings and reports; authorizing admission of certain report by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in certain hearing; amending 63 O.S. 1991, Section 2-204, as last amended by Section 1, Chapter 16, O.S.L. 2000 (63 O.S. Supp. 2000, Section 2-204), which relates to controlled substance schedules; adding certain substance to certain schedule; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 751, as last amended by Section 1, Chapter 55, O.S.L. 1999 (22 O.S. Supp. 2000, Section 751), is amended to read as follows:

Section 751. A. At any hearing prior to trial or at a forfeiture hearing, a report of the findings of the laboratory of the Oklahoma State Bureau of Investigation, the medical examiners report of investigation or autopsy report, or a laboratory report from a forensic laboratory operated by the State of Oklahoma or any political subdivision thereof, or a report from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as to the existence or status of any license or permit to sell, transfer, or possess precursor substances, which has been made available to the accused by the office of the district attorney at least five (5) days prior to the hearing, with reference to all or any part of the evidence submitted, when certified as correct by the persons making the report shall be received as evidence of the facts and findings

stated, if relevant and otherwise admissible in evidence. If a report is deemed relevant by the state or the accused, the court shall admit the report without the testimony of the person making the report, unless the court, pursuant to subsection C of this section, orders the person making the report to appear. If the accused is not served with a report, by the district attorney, within five (5) days prior to a hearing, the accused may be allowed a continuance of the portion of the hearing to which the report is relevant, to allow at least five (5) days preparation subsequent to the district attorney's furnishing of the report.

B. When any alleged controlled dangerous substance has been submitted to the laboratory of the Bureau for analysis, and such analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a felony under the laws of this state, no portion of such substance shall be released to any other person or laboratory without an order of a district court. The defendant shall additionally be required to submit to the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner.

C. For purposes of the medical examiner's report of investigation or autopsy report, or a laboratory report from a forensic laboratory operated by the State of Oklahoma or any political subdivision thereof or a report from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as to the existence or status of any license or permit to sell, transfer, or possess precursor substances:

1. The court, upon motion of the state or the accused, shall order the attendance of any person preparing a report submitted as evidence in any hearing prior to trial or forfeiture hearing, when it appears there is a substantial likelihood that material evidence

not contained in such report may be produced by the testimony of the person having prepared the report.

2. The motion shall be filed and notice of the hearing on the motion to order the attendance of the Chief Medical Examiner, a medical examiner, consultant pathologist, or anyone under their supervision or control shall be given to the medical examiner's office. The hearing shall be held and, if sustained, an order issued not less than five (5) days prior to the time when the testimony shall be required.

3. If within five (5) days prior to the hearing or during a hearing a motion is made pursuant to this subsection requiring a person having prepared a report to testify, the court may hear a report or other evidence but shall continue the hearing until such time notice of the motion and hearing is given to the medical examiner's office, the motion is heard, and, if sustained, testimony ordered can be given.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 2-204, as last amended by Section 1, Chapter 16, O.S.L. 2000 (63 O.S. Supp. 2000, Section 2-204), is amended to read as follows:

Section 2-204. The controlled substances listed in this section are included in Schedule I.

A. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Acetylmethadol.
2. Allylprodine.
3. Alphacetylmethadol.
4. Alphameprodine.
5. Alphamethadol.
6. Benzethidine.

7. Betacetylmethadol.
8. Betameprodine.
9. Betamethadol.
10. Betaprodine.
11. Clonitazene.
12. Dextromoramide.
13. Dextrorphan (except its methyl ether).
14. Diampromide.
15. Diethylthiambutene.
16. Dimenoxadol.
17. Dimepheptanol.
18. Dimethylthiambutene.
19. Dioxaphetyl butyrate.
20. Dipipanone.
21. Ethylmethylthiambutene.
22. Etonitazene.
23. Etoxeridine.
24. Furethidine.
25. Hydroxypethidine.
26. Ketobemidone.
27. Levomoramide.
28. Levophenacilmorphan.
29. Morpheridine.
30. Noracymethadol.
31. Norlevorphanol.
32. Normethadone.
33. Norpipanone.
34. Phenadoxone.
35. Phenampromide.
36. Phenomorphan.
37. Phenoperidine.
38. Piritramide.

39. Proheptazine.
40. Properidine.
41. Racemoramide.
42. Trimeperidine.
43. Flunitrazepam.

B. Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Acetorphine.
2. Acetyldihydrocodeine.
3. Benzylmorphine.
4. Codeine methylbromide.
5. Codeine-N-Oxide.
6. Cyprenorphine.
7. Desomorphine.
8. Dihydromorphine.
9. Etorphine.
10. Heroin.
11. Hydromorphenol.
12. Methyldesorphine.
13. Methylhydromorphine.
14. Morphine methylbromide.
15. Morphine methylsulfonate.
16. Morphine-N-Oxide.
17. Myrophine.
18. Nicocodeine.
19. Nicomorphine.
20. Normorphine.
21. Phoclodine.
22. Thebacon.

C. Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Methcathinone.
2. 3, 4-methylenedioxy amphetamine.
3. 3, 4-methylylenedioxy methamphetamine
4. 5-methoxy-3, 4-methylenedioxy amphetamine.
- ~~4.~~ 5. 3, 4, 5-trimethoxy amphetamine.
- ~~5.~~ 6. Bufotenine.
- ~~6.~~ 7. Diethyltryptamine.
- ~~7.~~ 8. Dimethyltryptamine.
- ~~8.~~ 9. 4-methyl-2, 5-dimethoxyamphetamine.
- ~~9.~~ 10. Ibogaine.
- ~~10.~~ 11. Lysergic acid diethylamide.
- ~~11.~~ 12. Marihuana.
- ~~12.~~ 13. Mescaline.
- ~~13.~~ 14. N-ethyl-3-piperidyl benzilate.
- ~~14.~~ 15. N-methyl-3-piperidyl benzilate.
- ~~15.~~ 16. Psilocybin.
- ~~16.~~ 17. Psilocyn.
- ~~17.~~ 18. 2, 5 dimethoxyamphetamine.
- ~~18.~~ 19. 4 Bromo-2, 5-dimethoxyamphetamine.
- ~~19.~~ 20. 4 methoxyamphetamine.
- ~~20.~~ 21. Cyclohexamine.
- ~~21.~~ 22. Thiophene Analog of Phencyclidine. Also known as: 1-(1-(2-thienyl) cyclohexyl) piperidine; 2-Thienyl Analog of Phencyclidine; TPCP, TCP.
- ~~22.~~ 23. Phencyclidine (PCP).
- ~~23.~~ 24. Pyrrolidine Analog for Phencyclidine. Also known as 1-(1-Phencyclohexyl) - Pyrrolidine, PCPy, PHP.

D. Unless specifically excepted or unless listed in a different schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having stimulant or depressant effect on the central nervous system:

1. Fenethylline.
2. Mecloqualone.
3. N-ethylamphetamine.
4. Methaqualone.
5. Gammahydroxybuterate.
6. Gamma-Butyrolactone (GBL) as packaged, marketed,

manufactured or promoted for human consumption.

E. 1. The following industrial uses of Gamma-Butyrolactone are excluded from all schedules of controlled substances under this title:

- a. pesticides,
- b. photochemical etching,
- c. electrolytes of small batteries or capacitors,
- d. viscosity modifiers in polyurethane,
- e. surface etching of metal coated plastics,
- f. organic paint disbursements for water soluble inks,
- g. pH regulators in the dyeing of wool and polyamide fibers,
- h. foundry chemistry as a catalyst during curing, and
- i. curing agents in many coating systems based on urethanes and amides.

2. At the request of any person, the Director may exempt any other product containing Gamma-Butyrolactone from being included as a Schedule I controlled substance if such product is labeled, marketed, manufactured and distributed for legitimate industrial use in a manner that reduces or eliminates the likelihood of abuse.

3. In making a determination regarding an industrial product, the Director, after notice and hearing, shall consider the following:

- a. the history and current pattern of abuse,
- b. the name and labeling of the product,
- c. the intended manner of distribution, advertising and promotion of the product, and
- d. other factors as may be relevant to and consistent with the public health and safety.

4. The hearing shall be held in accordance with the procedures of the Administrative Procedures Act.

SECTION 3. This act shall become effective July 1, 2001.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

48-1-214

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