

**EHB 2176**

**THE STATE SENATE**  
Wednesday, March 17, 2004

**ENGROSSED**

**House Bill No. 2176**

**As Amended**

ENGROSSED HOUSE BILL NO. 2176 - By: NANCE, ROAN, McCARTER, ARMES, BLACKWELL, SMITHSON, YOUNG, TREBILCOCK, STAGGS, PETERS, TIBBS, NEWPORT, BRADDOCK, LAMONS, ASKINS, BALKMAN, BOREN, BRANNON, CALVEY, CAREY, COVEY, DANK, DEUTSCHENDORF, DeWITT, DORMAN, EASLEY, GREENWOOD, HARRISON, LIOTTA, McClAIN, MILLER (Ray), PAULK, PETERSON (Pam), PIATT, ROGGOW, SWEEDEN, TAYLOR, TYLER, VAUGHN and WALKER of the House and WILKERSON, BROGDON, COFFEE, FAIR, GUMM, LEFTWICH (Debbe) and LERBLANCE of the Senate.

**An Act relating to controlled dangerous substances; creating the Trooper Nik Green, Rocky Eales and Matthew Evans Act; amending 22 O.S. 2001, Section 1105, which relates to defendants discharged on giving bail; clarifying release procedure for certain persons; providing a rebuttable presumption under certain circumstances; amending 63 O.S. 2001, Section 2-212, which relates to Schedule V of the Uniform Controlled Dangerous Substances Act; adding pseudoephedrine to Schedule V; providing procedures prior to sale of certain products; establishing amount of product that may be acquired within certain period of time; providing exceptions; providing for rule promulgation; providing for the removal of drug product under certain circumstances; amending Section 1, Chapter 288, O.S.L. 2002, as amended by Section 3, Chapter 133, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-332) which relates to the Precursor Substances Act; decreasing amount of drug product that may be possessed; modifying penalty; amending 63 O.S. 2001, Section 2-401, as last amended by Section 2, Chapter 437, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-401), which relates to prohibited acts and penalties; expanding list of prohibited substances; deleting possession requirement relating to certain prima facia evidence of intent to use; making certain actions unlawful; providing a presumption to defraud or cause deceitful results in certain test; defining term; providing penalty; providing for noncodification; providing for codification; and declaring an emergency.**

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

2 SECTION 1. NEW LAW A new section of law not to be  
3 codified in the Oklahoma Statutes reads as follows:

4 Sections 1 through 7 of this act shall be known and may be cited  
5 as the "Trooper Nik Green, **Rocky Eales and Matthew Evans** Act".

6 SECTION 2. AMENDATORY 22 O.S. 2001, Section 1105, is  
7 amended to read as follows:

8 Section 1105. A. Except as otherwise provided by this section,  
9 upon the allowance of bail and the execution of the requisite  
10 recognizance, bond, or undertaking to the state, the magistrate,  
11 judge, or court, shall, if the defendant is in custody, make and  
12 sign an order for discharge. The court, in its discretion, may  
13 prescribe by court rule the conditions under which the court clerk  
14 or deputy court clerk, or the sheriff or deputy sheriff, may prepare  
15 and execute an order of release on behalf of the court.

16 B. No police officer or sheriff may release a person arrested  
17 for a violation of an ex parte or final protective order as provided  
18 in Sections 60.2 and 60.3 of this title, or arrested for an act  
19 constituting domestic abuse as specified in Section 644 of Title 21  
20 of the Oklahoma Statutes, or arrested for any act constituting  
21 domestic abuse, stalking or harassment as defined by Section 60.1 of  
22 this title without the violator appearing before a magistrate, judge  
23 or court. The magistrate, judge or court shall determine bond and

1 other conditions of release as necessary for the protection of the  
2 alleged victim.

3 C. No police officer or sheriff may release a person arrested  
4 for any violation of subsection G of Section 2-401 of Title 63 of  
5 the Oklahoma Statutes, without the violator appearing before a  
6 magistrate, judge, or court. In determining bond and other  
7 conditions of release, the magistrate, judge, or court shall  
8 consider any evidence that the person is in any manner dependent  
9 upon a controlled dangerous substance or has a pattern of regular,  
10 illegal use of any controlled dangerous substance. A rebuttable  
11 presumption that no conditions of release on bond would assure the  
12 safety of the community or any person therein shall arise if the  
13 state shows by a preponderance of the evidence:

14 1. The person was arrested for a violation of subsection G of  
15 Section 2-401 of Title 63 of the Oklahoma Statutes, relating to  
16 manufacturing or attempting to manufacture a controlled dangerous  
17 substance, or possessing any of the substances listed in subsection  
18 G of Section 2-401 of Title 63 of the Oklahoma Statutes with the  
19 intent to manufacture a controlled dangerous substance; and

20 2. The person is in any manner dependent upon a controlled  
21 dangerous substance or has a pattern of regular illegal use of a  
22 controlled dangerous substance, and the violation referred to in  
23 paragraph 1 of this subsection was committed or attempted in order

1 to maintain or facilitate the dependence or pattern of illegal use  
2 in any manner.

3 SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-212, is  
4 amended to read as follows:

5 Section 2-212. A. The controlled substances listed in this  
6 section are included in Schedule V.

7 1. Any compound, mixture, or preparation containing limited  
8 quantities of any of the following narcotic drugs, which also  
9 contains one or more nonnarcotic active medicinal ingredients in  
10 sufficient proportion to confer upon the compound, mixture, or  
11 preparation, valuable medicinal qualities other than those possessed  
12 by the narcotic drug alone:

13 ~~1. Not~~

14 a. not more than two hundred (200) milligrams of codeine,  
15 or any of its salts, per one hundred (100) milliliters  
16 or per one hundred (100) grams.

17 ~~2. Not,~~

18 b. not more than one hundred (100) milligrams of  
19 dihydrocodeine, or any of its salts, per one hundred  
20 (100) milliliters or per one hundred (100) grams.

21 ~~3. Not,~~



1 receipt showing the date of the transaction, name of  
2 the person, and the amount of the compound, mixture,  
3 or preparation.

4 No person shall purchase, receive, or otherwise acquire more than  
5 nine (9) grams of any product, mixture, or preparation within any  
6 thirty-day period. **Provided, this limit shall not apply to any**  
7 **quantity of such product, mixture or preparation dispensed pursuant**  
8 **to a valid prescription.**

9 B. The Schedule, as specified in paragraph 2 of subsection A,  
10 shall not apply to any compounds, mixtures, or preparations which  
11 are in liquid, liquid capsule, or gel capsule form if  
12 pseudoephedrine is not the only active ingredient.

13 C. The Director of the Oklahoma State Bureau of Narcotics and  
14 Dangerous Drugs Control, by rule, may exempt other products from  
15 this Schedule which the Director finds are not used in the illegal  
16 manufacture of methamphetamine or other controlled dangerous  
17 substances. A manufacturer of a drug product may apply for removal  
18 of the product from the Schedule if the product is determined by the  
19 Director to have been formulated in such a way as to effectively  
20 prevent the conversion of the active ingredient into  
21 methamphetamine.

1 SECTION 4. AMENDATORY Section 1, Chapter 288, O.S.L.  
2 2002, as amended by Section 3, Chapter 133, O.S.L. 2003 (63 O.S.  
3 Supp. 2003, Section 2-332), is amended to read as follows:

4 Section 2-332. A. It shall be unlawful for a person to  
5 knowingly and unlawfully possess a drug product containing  
6 ephedrine, pseudoephedrine or phenylpropanolamine, or their salts,  
7 isomers or salts of isomers with intent to use the product as a  
8 precursor to manufacture methamphetamine or another controlled  
9 substance.

10 B. Except as provided in this subsection, possession of a drug  
11 product containing more than ~~twenty-four (24)~~ nine (9) grams of  
12 ephedrine, pseudoephedrine or phenylpropanolamine, or their salts,  
13 isomers or salts of isomers shall constitute a rebuttable  
14 presumption of the intent to use the product as a precursor to  
15 methamphetamine or another controlled substance. The rebuttable  
16 presumption established by this subsection shall not apply to the  
17 following persons who are lawfully possessing drug products in the  
18 course of legitimate business:

- 19 1. A retail distributor of drug products or wholesaler;
- 20 2. A wholesale drug distributor, or its agents, licensed by the  
21 Board of Pharmacy;
- 22 3. A manufacturer of drug products, or its agents, licensed by  
23 the Board of Pharmacy;

1 4. A pharmacist licensed by the Board of Pharmacy; and

2 5. A licensed healthcare professional possessing the drug  
3 products in the course of carrying out his profession.

4 C. A violation of this section shall be a felony punishable ~~by~~  
5 ~~imprisonment in the State Penitentiary for a term of not more than~~  
6 ~~five (5) years~~ as provided for in subsection G of Section 2-401 of  
7 this title.

8 D. Any wholesaler, manufacturer, or distributor of drug  
9 products containing pseudoephedrine or phenylpropanolamine, or their  
10 salts, isomers, or salts of isomers shall obtain a registration  
11 annually from the Oklahoma State Bureau of Narcotics and Dangerous  
12 Drugs Control. Any such wholesaler, manufacturer, or distributor  
13 shall keep complete records of all transactions involving such drug  
14 products including the names of all parties involved in the  
15 transaction and amount of the drug products involved. The records  
16 shall be kept readily retrievable and separate from all other  
17 invoices or records of transactions not involving such drug  
18 products, and shall be maintained for not less than three (3) years.

19 E. As used in this section:

20 1. "Manufacturer" means any person within this state who  
21 produces, compounds, packages, or in any manner initially prepares  
22 for sale or use any drug product described in subsection D of this

1 section, or any such person in another state if they cause the  
2 products to be compounded, packaged, or transported into this state;

3 2. "Wholesaler" means any person within this state or another  
4 state, other than a manufacturer, who sells, transfers, or in any  
5 manner furnishes a drug product described in subsection A of this  
6 section to any other person in this state for the purpose of being  
7 resold;

8 3. "Distributor" means any person within this state or another  
9 state, other than a manufacturer or wholesaler, who sells, delivers,  
10 transfers, or in any manner furnishes a drug product described in  
11 subsection A of this section to any person who is not the ultimate  
12 user or consumer of the product; and

13 4. "Readily retrievable" means available for inspection without  
14 prior notice at the registration address if that address is within  
15 the State of Oklahoma. If the registration address is in a state  
16 other than Oklahoma, it means records must be furnished within three  
17 (3) working days by courier, facsimile, mail or electronic mail.

18 F. Any substances possessed without a registration as provided  
19 in subsection D of this section shall be subject to forfeiture upon  
20 conviction for a violation of this section.

21 G. In addition to any administrative penalties provided by law,  
22 any violation of this section shall be a misdemeanor, punishable

1 upon conviction by a fine only in an amount not more than Ten  
2 Thousand Dollars (\$10,000.00).

3 SECTION 5. AMENDATORY 63 O.S. 2001, Section 2-401, as  
4 last amended by Section 2, Chapter 437, O.S.L. 2003 (63 O.S. Supp.  
5 2003, Section 2-401), is amended to read as follows:

6 Section 2-401. A. Except as authorized by the Uniform  
7 Controlled Dangerous Substances Act it shall be unlawful for any  
8 person:

9 1. To distribute, dispense, transport with intent to distribute  
10 or dispense, possess with intent to manufacture, distribute, or  
11 dispense, a controlled dangerous substance or to solicit the use of  
12 or use the services of a person less than eighteen (18) years of age  
13 to cultivate, distribute or dispense a controlled dangerous  
14 substance;

15 2. To create, distribute, transport with intent to distribute  
16 or dispense, or possess with intent to distribute, a counterfeit  
17 controlled dangerous substance; or

18 3. To distribute any imitation controlled substance as defined  
19 by Section 2-101 of this title, except when authorized by the Food  
20 and Drug Administration of the United States Department of Health  
21 and Human Services.

22 B. Any person who violates the provisions of this section with  
23 respect to:

1           1. A substance classified in Schedule I or II which is a  
2 narcotic drug or lysergic acid diethylamide (LSD), upon conviction,  
3 shall be guilty of a felony and shall be sentenced to a term of  
4 imprisonment for not less than five (5) years nor more than life and  
5 a fine of not more than One Hundred Thousand Dollars (\$100,000.00),  
6 which shall be in addition to other punishment provided by law and  
7 shall not be imposed in lieu of other punishment. Any sentence to  
8 the custody of the Department of Corrections shall not be subject to  
9 statutory provisions for suspended sentences, deferred sentences, or  
10 probation except when the conviction is for a first offense;

11           2. Any other controlled dangerous substance classified in  
12 Schedule I, II, III, or IV, upon conviction, shall be guilty of a  
13 felony and shall be sentenced to a term of imprisonment for not less  
14 than two (2) years nor more than life and a fine of not more than  
15 Twenty Thousand Dollars (\$20,000.00), which shall be in addition to  
16 other punishment provided by law and shall not be imposed in lieu of  
17 other punishment. Any sentence to the custody of the Department of  
18 Corrections shall not be subject to statutory provisions for  
19 suspended sentences, deferred sentences, or probation except when  
20 the conviction is for a first offense;

21           3. A substance classified in Schedule V, upon conviction, shall  
22 be guilty of a felony and shall be sentenced to a term of  
23 imprisonment for not more than five (5) years and a fine of not more

1 than One Thousand Dollars (\$1,000.00), which shall be in addition to  
2 other punishment provided by law and shall not be imposed in lieu of  
3 other punishment; or

4 4. An imitation controlled substance as defined by Section 2-  
5 101 of this title, upon conviction, shall be guilty of a misdemeanor  
6 and shall be sentenced to a term of imprisonment in the county jail  
7 for a period of not more than one (1) year and a fine of not more  
8 than One Thousand Dollars (\$1,000.00). A person convicted of a  
9 second violation of the provisions of this paragraph shall be guilty  
10 of a felony and shall be sentenced to a term of imprisonment for not  
11 more than five (5) years and a fine of not more than Five Thousand  
12 Dollars (\$5,000.00), which shall be in addition to other punishment  
13 provided by law and shall not be imposed in lieu of other  
14 punishment.

15 C. 1. Except when authorized by the Food and Drug  
16 Administration of the United States Department of Health and Human  
17 Services, it shall be unlawful for any person to manufacture,  
18 distribute, or possess with intent to distribute a synthetic  
19 controlled substance.

20 2. Any person convicted of violating the provisions of this  
21 paragraph is guilty of a felony and shall be punished by  
22 imprisonment in the State Penitentiary for a term not to exceed life  
23 and a fine of not more than Twenty-five Thousand Dollars

1 (\$25,000.00), which shall be in addition to other punishment  
2 provided by law and shall not be imposed in lieu of other  
3 punishment.

4 3. A second or subsequent conviction for the violation of the  
5 provisions of this paragraph is a felony punishable as a habitual  
6 offender pursuant to Section 51.1 of Title 21 of the Oklahoma  
7 Statutes.

8 4. In addition the violator shall be fined an amount not more  
9 than One Hundred Thousand Dollars (\$100,000.00), which shall be in  
10 addition to other punishment provided by law and shall not be  
11 imposed in lieu of other punishment.

12 D. 1. Any person convicted of a second or subsequent felony  
13 violation of the provisions of this section, except for paragraph 4  
14 of subsection B of this section, shall be punished as a habitual  
15 offender pursuant to Section 51.1 of Title 21 of the Oklahoma  
16 Statutes.

17 2. In addition the violator shall be fined twice the fine  
18 otherwise authorized, which shall be in addition to other punishment  
19 provided by law and shall not be imposed in lieu of other  
20 punishment.

21 3. Convictions for second or subsequent violations of the  
22 provisions of this section shall not be subject to statutory

1 provisions for suspended sentences, deferred sentences, or  
2 probation.

3 E. Any person who is at least eighteen (18) years of age and  
4 who violates the provisions of this section by using or soliciting  
5 the use of services of a person less than eighteen (18) years of age  
6 to distribute, dispense, transport with intent to distribute or  
7 dispense or cultivate a controlled dangerous substance or by  
8 distributing a controlled dangerous substance to a person under  
9 eighteen (18) years of age is punishable by twice the fine and by  
10 twice the imprisonment otherwise authorized.

11 F. Any person who violates any provision of this section by  
12 transporting with intent to distribute or dispense, distributing or  
13 possessing with intent to distribute a controlled dangerous  
14 substance to a person, or violation of ~~subparagraph~~ subsection G of  
15 this section, in or on, or within two thousand (2,000) feet of the  
16 real property comprising a public or private elementary or secondary  
17 school, public vocational school, public or private college or  
18 university, or other institution of higher education, recreation  
19 center or public park, including state parks and recreation areas,  
20 public housing project, or child care facility as defined by Section  
21 402 of Title 10 of the Oklahoma Statutes shall be punished by:

22 1. For a first offense, a term of imprisonment, or by the  
23 imposition of a fine or by both, not exceeding twice that authorized

1 by the appropriate provision of this section and shall serve a  
2 minimum of fifty percent (50%) of the sentence received prior to  
3 becoming eligible for state correctional institution earned credits  
4 toward the completion of said sentence; or

5 2. For a second or subsequent offense, a term of imprisonment  
6 as provided for a habitual offender pursuant to Section 51.1 of  
7 Title 21 of the Oklahoma Statutes. In addition the violator shall  
8 serve eighty-five percent (85%) of the sentence received prior to  
9 becoming eligible for state correctional institution earned credits  
10 toward the completion of said sentence or eligibility for parole.

11 G. 1. Except as authorized by the Uniform Controlled Dangerous  
12 Substances Act, it shall be unlawful for any person to manufacture  
13 or attempt to manufacture any controlled dangerous substance or  
14 possess any substance listed in Section 2-322 of this title or any  
15 substance containing any detectable amount of pseudoephedrine or its  
16 salts, optical isomers or salts of optical isomers, iodine or its  
17 salts, optical isomers or salts of optical isomers, hydriodic acid,  
18 sodium metal, lithium metal, anhydrous ammonia, phosphorus, or  
19 organic solvents with the intent to use that substance to  
20 manufacture a controlled dangerous substance.

21 2. Any person violating the provisions of this subsection with  
22 respect to the unlawful manufacturing or attempting to unlawfully  
23 manufacture any controlled dangerous substance, or possessing any

1 substance listed in this subsection or Section 2-322 of this title,  
2 upon conviction, is guilty of a felony and shall be punished by  
3 imprisonment in the State Penitentiary for not less than seven (7)  
4 years nor more than life and by a fine of not less than Fifty  
5 Thousand Dollars (\$50,000.00), which shall be in addition to other  
6 punishment provided by law and shall not be imposed in lieu of other  
7 punishment. The possession of any amount of anhydrous ammonia in an  
8 unauthorized container ~~or the possession of three or more of the~~  
9 ~~substances listed in this subsection~~ shall be prima facie evidence  
10 of intent to use such substance to manufacture a controlled  
11 dangerous substance.

12 3. Any person violating the provisions of this subsection with  
13 respect to the unlawful manufacturing or attempting to unlawfully  
14 manufacture any controlled dangerous substance in the following  
15 amounts:

- 16 a. ~~±~~ one (1) kilogram or more of a mixture or substance  
17 containing a detectable amount of heroin,  
18 b. ~~±~~ five (5) kilograms or more of a mixture or substance  
19 containing a detectable amount of:  
20 (1) coca leaves, except coca leaves and extracts of  
21 coca leaves from which cocaine, ecgonine, and  
22 derivatives of ecgonine or their salts have been  
23 removed,

- 1 (2) cocaine, its salts, optical and geometric  
2 isomers, and salts of isomers,  
3 (3) ecgonine, its derivatives, their salts, isomers,  
4 and ~~slats~~ salts of isomers, or  
5 (4) any compound, mixture, or preparation which  
6 contains any quantity of any of the substances  
7 referred to in ~~subparagraphs~~ divisions (1)  
8 through (3) of this ~~paragraph~~ subparagraph,
- 9 c. ~~50~~ fifty (50) grams or more of a mixture or substance  
10 described in ~~subparagraph~~ division (2) of ~~paragraph~~  
11 subparagraph b of this paragraph which contains  
12 cocaine base,
- 13 d. ~~100~~ one hundred (100) grams or more of phencyclidine  
14 (PCP) or 1 kilogram or more of a mixture or substance  
15 containing a detectable amount of phencyclidine (PCP),
- 16 e. ~~10~~ ten (10) grams or more of a mixture or substance  
17 containing a detectable amount of lysergic acid  
18 diethylamide (LSD),
- 19 f. ~~400~~ four hundred (400) grams or more of a mixture or  
20 substance containing a detectable amount of N-phenyl-  
21 N-[1-(2-pheylethy)-4-piperidinyl] propanamide or 100  
22 grams or more of a mixture or substance containing a

1 detectable amount of any analogue of N-phenyl-N-[1-(2-  
2 phenylethyl)-4-piperidinyl] propanamide,  
3 g. ~~1000~~ one thousand (1,000) kilograms or more of a  
4 mixture or substance containing a detectable amount of  
5 marihuana or 1000 or more marihuana plants regardless  
6 of weight, or  
7 h. ~~50~~ fifty (50) grams or more of methamphetamine, its  
8 salts, isomers, and salts of its isomers or 500 grams  
9 or more of a mixture or substance containing a  
10 detectable amount of methamphetamine, its salts,  
11 isomers, or salts of its isomers,  
12 upon conviction, is guilty of aggravated manufacturing a controlled  
13 dangerous substance punishable by imprisonment in the State  
14 Penitentiary for not less than twenty (20) years nor more than life  
15 and by a fine of not less than Fifty Thousand Dollars (\$50,000.00),  
16 which shall be in addition to other punishment provided by law and  
17 shall not be imposed in lieu of other punishment. Any person  
18 convicted of a violation of the provisions of this paragraph shall  
19 be required to serve a minimum of eighty-five percent (85%) of the  
20 sentence received prior to becoming eligible for state correctional  
21 earned credits towards the completion of the sentence or eligible  
22 for parole.

1           4. Any sentence to the custody of the Department of Corrections  
2 for any violation of paragraph 3 of this subsection shall not be  
3 subject to statutory provisions for suspended sentences, deferred  
4 sentences, or probation. A person convicted of a second or  
5 subsequent violation of the provisions of paragraph 3 of this  
6 subsection shall be punished as a habitual offender pursuant to  
7 Section 51.1 of Title 21 of the Oklahoma Statutes and shall be  
8 required to serve a minimum of eighty-five percent (85%) of the  
9 sentence received prior to becoming eligible for state correctional  
10 earned credits or eligibility for parole.

11           H. Any person convicted of any offense described in this  
12 section may, in addition to the fine imposed, be assessed an amount  
13 not to exceed ten percent (10%) of the fine imposed, notwithstanding  
14 any maximum assessment allowable in Section 2-506 of this title.  
15 Such assessment shall be paid into a revolving fund for enforcement  
16 of controlled dangerous substances created pursuant to Section 2-506  
17 of this title.

18           I. For purposes of this section, "public housing project" means  
19 any dwelling or accommodations operated as a state or federally  
20 subsidized multifamily housing project by any housing authority,  
21 nonprofit corporation or municipal developer or housing projects  
22 created pursuant to the Oklahoma Housing Authorities Act.

1 J. When a person is found guilty of a violation of the  
2 provisions of this section, the court shall order, in addition to  
3 any other penalty, the defendant to pay a one-hundred-dollar  
4 assessment to be deposited in the Drug Abuse Education and Treatment  
5 Revolving Fund created in Section 2-503.2 of ~~Title 63 of the~~  
6 ~~Oklahoma Statutes~~ this title, upon collection.

7 SECTION 6. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 7002 of Title 63, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. It is unlawful for a person to:

11 1. Sell, give away, distribute, or market human or synthetic  
12 urine in this state or transport human or synthetic urine into this  
13 state with the intent of using the urine to defraud or cause  
14 deceitful results in a urine, drug, or alcohol screening test;

15 2. Attempt to foil or defeat a urine, drug, or alcohol  
16 screening test by the substitution or spiking of a urine sample;

17 3. Advertise for sale any product designed to foil or defeat a  
18 urine, drug, or alcohol screening test;

19 4. Adulterate a urine or other bodily fluid sample with the  
20 intent to defraud or cause deceitful results in a urine, drug, or  
21 alcohol screening test;

22 5. Possess adulterants which are intended to be used to  
23 adulterate a urine or other bodily fluid sample for the purpose of

1 defrauding or causing deceitful results in a urine, drug, or alcohol  
2 screening test; or

3       6. Sell or market an adulterant with the intent by the seller  
4 or marketer that the product be used to adulterate a urine or other  
5 bodily fluid sample for the purpose of defrauding or causing  
6 deceitful results in a urine, drug, or alcohol screening test.

7       B. Intent to defraud or cause deceitful results in a urine,  
8 drug, or alcohol screening test is presumed if:

9       1. A heating element or any other device used to thwart a drug  
10 screening test accompanies the sale, giving, distribution, or  
11 marketing of urine; or

12       2. Instructions that provide a method for thwarting a drug  
13 screening test accompany the sale, giving, distribution, or  
14 marketing of urine.

15       C. As used in this section, "adulterant" means a substance that  
16 is not expected to be in human urine or a substance expected to be  
17 present in human urine but that is at a concentration so high that  
18 it is not consistent with human urine, including, but not limited  
19 to:

- 20       1. Bleach;  
21       2. Chromium;  
22       3. Creatinine;  
23       4. Detergent;

- 1        5. Glutaraldehyde;
- 2        6. Glutaraldehyde/squalene;
- 3        7. Hydrochloric acid;
- 4        8. Hydroiodic acid;
- 5        9. Iodine;
- 6        10. Nitrite;
- 7        11. Peroxidase;
- 8        12. Potassium dichromate;
- 9        13. Potassium nitrite;
- 10       14. Pyridinium chlorochromate; and
- 11       15. Sodium nitrite.

12       D. Any person convicted of violating any of the provisions of  
13 subsection A of this section shall be guilty of a misdemeanor and  
14 shall be sentenced to a term of imprisonment in the county jail for  
15 a period of not more than one (1) year or a fine of not more than  
16 One Thousand Dollars (\$1,000.00), or both such imprisonment and  
17 fine.

18       SECTION 7. It being immediately necessary for the preservation  
19 of the public peace, health and safety, an emergency is hereby  
20 declared to exist, by reason whereof this act shall take effect and  
21 be in full force from and after its passage and approval.

22       COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 3-15-04 -  
23       DO PASS, As Amended and Coauthored.