

1 ENGROSSED HOUSE
2 BILL NO. 2485

By: Nance, Sullivan, Glenn,
Wright, Balkman, Dank,
Shelton and Brown of the
House

4 and

5 Laster of the Senate

6
7
8 (public health and safety - amending 63 O.S.,
9 Section 2-101 - Uniform Controlled Dangerous
10 Substances Act - codification -
11 effective date)

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

15 SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-101, as
16 last amended by Section 98, Chapter 1, O.S.L. 2005 (63 O.S. Supp.
17 2005, Section 2-101), is amended to read as follows:

18 Section 2-101. As used in the Uniform Controlled Dangerous
19 Substances Act, Section 2-101 et seq. of this title:

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

24 a. a practitioner (or, in the presence of the
25 practitioner, by the authorized agent of the
26 practitioner), or

27 b. the patient or research subject at the direction and
28 in the presence of the practitioner;

29 2. "Agent" means a peace officer appointed by and who acts in
30 behalf of the Director of the Oklahoma State Bureau of Narcotics and
31 Dangerous Drugs Control or an authorized person who acts on behalf
32 of or at the direction of a person who manufactures, distributes,

1 dispenses, prescribes, administers or uses for scientific purposes
2 controlled dangerous substances but does not include a common or
3 contract carrier, public warehouse or employee thereof, or a person
4 required to register under the Uniform Controlled Dangerous
5 Substances Act;

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

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

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

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

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

19 8. "Controlled dangerous substance" means a drug, substance or
20 immediate precursor in Schedules I through V of the Uniform
21 Controlled Dangerous Substances Act, Section 2-101 et seq. of this
22 title;

23 9. "Counterfeit substance" means a controlled substance which,
24 or the container or labeling of which without authorization, bears
25 the trademark, trade name or other identifying marks, imprint,
26 number or device or any likeness thereof of a manufacturer,
27 distributor or dispenser other than the person who in fact
28 manufactured, distributed or dispensed the substance;

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

1 11. "Dispense" means to deliver a controlled dangerous
2 substance to an ultimate user or human research subject by or
3 pursuant to the lawful order of a practitioner, including the
4 prescribing, administering, packaging, labeling or compounding
5 necessary to prepare the substance for such distribution.

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

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

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

15 14. "Drug" means articles:

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

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

29 15. "Drug-dependent person" means a person who is using a
30 controlled dangerous substance and who is in a state of psychic or
31 physical dependence, or both, arising from administration of that
32 controlled dangerous substance on a continuous basis. Drug

1 dependence is characterized by behavioral and other responses which
2 include a strong compulsion to take the substance on a continuous
3 basis in order to experience its psychic effects, or to avoid the
4 discomfort of its absence;

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

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

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

26 19. "Imitation controlled substance" means a substance that is
27 not a controlled dangerous substance, which by dosage unit
28 appearance, color, shape, size, markings or by representations made,
29 would lead a reasonable person to believe that the substance is a
30 controlled dangerous substance. In the event the appearance of the
31 dosage unit is not reasonably sufficient to establish that the
32 substance is an "imitation controlled substance", the court or

1 authority concerned should consider, in addition to all other
2 factors, the following factors as related to "representations made"
3 in determining whether the substance is an "imitation controlled
4 substance":

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

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

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

31 22. "Manufacture" means the production, preparation,
32 propagation, compounding or processing of a controlled dangerous

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

8 23. "Marihuana" means all parts of the plant *Cannabis sativa*
9 L., whether growing or not; the seeds thereof; the resin extracted
10 from any part of such plant; and every compound, manufacture, salt,
11 derivative, mixture or preparation of such plant, its seeds or
12 resin, but shall not include the mature stalks of such plant, fiber
13 produced from such stalks, oil or cake made from the seeds of such
14 plant, any other compound, manufacture, salt, derivative, mixture or
15 preparation of such mature stalks (except the resin extracted
16 therefrom), fiber, oil or cake, or the sterilized seed of such plant
17 which is incapable of germination;

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

23 25. "Mid-level practitioner" means an advanced practice nurse
24 as defined and within parameters specified in Section 567.3a of
25 Title 59 of the Oklahoma Statutes, or a certified animal euthanasia
26 technician as defined in Section 698.2 of Title 59 of the Oklahoma
27 Statutes, or an animal control officer registered by the Oklahoma
28 State Bureau of Narcotics and Dangerous Drugs Control under
29 subsection B of Section 2-301 of this title within the parameters of
30 such officer's duty under Sections 501 through 508 of Title 4 of the
31 Oklahoma Statutes;

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

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

20 27. "Opiate" means any substance having an addiction-forming or
21 addiction-sustaining liability similar to morphine or being capable
22 of conversion into a drug having such addiction-forming or
23 addiction-sustaining liability. It does not include, unless
24 specifically designated as controlled under the Uniform Controlled
25 Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-
26 methyl-morphinan and its salts (dextromethorphan). It does include
27 its racemic and levorotatory forms;

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

30 29. "Peace officer" means a police officer, sheriff, deputy
31 sheriff, district attorney's investigator, investigator from the
32 Office of the Attorney General, or any other person elected or

1 appointed by law to enforce any of the criminal laws of this state
2 or of the United States;

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

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

8 32. "Practitioner" means:

9 a. (1) a medical doctor or osteopathic physician,

10 (2) a dentist,

11 (3) a podiatrist,

12 (4) an optometrist,

13 (5) a veterinarian,

14 (6) a physician assistant under the supervision of a
15 licensed medical doctor or osteopathic physician,

16 (7) a scientific investigator, or

17 (8) any other person,

18 licensed, registered or otherwise permitted to
19 prescribe, distribute, dispense, conduct research with
20 respect to, use for scientific purposes or administer
21 a controlled dangerous substance in the course of
22 professional practice or research in this state, or

23 b. a pharmacy, hospital, laboratory or other institution
24 licensed, registered or otherwise permitted to
25 distribute, dispense, conduct research with respect
26 to, use for scientific purposes or administer a
27 controlled dangerous substance in the course of
28 professional practice or research in this state;

29 33. "Production" includes the manufacture, planting,
30 cultivation, growing or harvesting of a controlled dangerous
31 substance;

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1 34. "State" means the State of Oklahoma or any other state of
2 the United States;

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

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

- 17 a. kits used, intended for use, or fashioned specifically
18 for use in planting, propagating, cultivating, growing
19 or harvesting of any species of plant which is a
20 controlled dangerous substance or from which a
21 controlled dangerous substance can be derived,
- 22 b. kits used, intended for use, or fashioned specifically
23 for use in manufacturing, compounding, converting,
24 producing, processing or preparing controlled
25 dangerous substances,
- 26 c. isomerization devices used, intended for use, or
27 fashioned specifically for use in increasing the
28 potency of any species of plant which is a controlled
29 dangerous substance,
- 30 d. testing equipment used, intended for use, or fashioned
31 specifically for use in identifying, or in analyzing
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1 the strength, effectiveness or purity of controlled
2 dangerous substances,

3 e. scales and balances used, intended for use, or
4 fashioned specifically for use in weighing or
5 measuring controlled dangerous substances,

6 f. diluents and adulterants, such as quinine
7 hydrochloride, mannitol, mannite, dextrose and
8 lactose, used, intended for use, or fashioned
9 specifically for use in cutting controlled dangerous
10 substances,

11 g. separation gins and sifters used, intended for use, or
12 fashioned specifically for use in removing twigs and
13 seeds from, or in otherwise cleaning or refining,
14 marihuana,

15 h. blenders, bowls, containers, spoons and mixing devices
16 used, intended for use, or fashioned specifically for
17 use in compounding controlled dangerous substances,

18 i. capsules, balloons, envelopes and other containers
19 used, intended for use, or fashioned specifically for
20 use in packaging small quantities of controlled
21 dangerous substances,

22 j. containers and other objects used, intended for use,
23 or fashioned specifically for use in parenterally
24 injecting controlled dangerous substances into the
25 human body,

26 k. hypodermic syringes, needles and other objects used,
27 intended for use, or fashioned specifically for use in
28 parenterally injecting controlled dangerous substances
29 into the human body,

30 l. objects used, intended for use, or fashioned
31 specifically for use in ingesting, inhaling or
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1 otherwise introducing marihuana, cocaine, hashish or
2 hashish oil into the human body, such as:

- 3 (1) metal, wooden, acrylic, glass, stone, plastic or
4 ceramic pipes with or without screens, permanent
5 screens, hashish heads or punctured metal bowls,
- 6 (2) water pipes,
- 7 (3) carburetion tubes and devices,
- 8 (4) smoking and carburetion masks,
- 9 (5) roach clips, meaning objects used to hold burning
10 material, such as a marihuana cigarette, that has
11 become too small or too short to be held in the
12 hand,
- 13 (6) miniature cocaine spoons and cocaine vials,
- 14 (7) chamber pipes,
- 15 (8) carburetor pipes,
- 16 (9) electric pipes,
- 17 (10) air-driven pipes,
- 18 (11) chillums,
- 19 (12) bonges, or
- 20 (13) ice pipes or chillers,

21 m. all hidden or novelty pipes, and

22 n. any pipe that has a tobacco bowl or chamber of less
23 than one-half (1/2) inch in diameter in which there is
24 any detectable residue of any controlled dangerous
25 substance as defined in this section or any other
26 substances not legal for possession or use;

27 provided, however, the term "drug paraphernalia" shall not include
28 separation gins intended for use in preparing tea or spice, clamps
29 used for constructing electrical equipment, water pipes designed for
30 ornamentation in which no detectable amount of an illegal substance
31 is found or pipes designed and used solely for smoking tobacco,
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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. "Synthetic controlled substance" means a substance, whether
4 synthetic or naturally occurring, that is not a controlled dangerous
5 substance, but which produces a like or similar physiological or
6 psychological effect on the human central nervous system that
7 currently has no accepted medical use in treatment in the United
8 States and has a potential for abuse. The court or authority
9 concerned with establishing that the substance is a synthetic
10 controlled substance should consider, in addition to all other
11 factors, the following factors as related to "representations made"
12 in determining whether the substance is a synthetic controlled
13 substance:

- 14 a. statements made by an owner or by any other person in
15 control of the substance concerning the nature of the
16 substance, its use or effect,
- 17 b. statements made to the recipient that the substance
18 may be resold for an inordinate profit,
- 19 c. prior convictions, if any, of an owner or any person
20 in control of the substance, under state or federal
21 law related to controlled dangerous substances, and
- 22 d. the proximity of the substance to any controlled
23 dangerous substance.

24 Any evidence that a substance including, but not limited to, salvia
25 divinorum has been enhanced, concentrated or chemically or
26 physically altered shall be a rebuttable presumption that the
27 substance is a synthetic controlled substance;

28 38. "Tetrahydrocannabinols" means all substances that have been
29 chemically synthesized to emulate the tetrahydrocannabinols of
30 marihuana;

31 39. "Isomer" means the optical isomer, except as used in
32 subsection C of Section 2-204 of this title and paragraph 4 of

1 subsection A of Section 2-206 of this title. As used in subsection
2 C of Section 2-204 of this title, "isomer" means the optical,
3 positional or geometric isomer. As used in paragraph 4 of
4 subsection A of Section 2-206 of this title, the term "isomer" means
5 the optical or geometric isomer;

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

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

12 SECTION 2. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2-611 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 A. There is hereby created until July 1, 2007, the Task Force
16 on Teen Abuse and Misuse of Drugs and Household Items.

17 B. The task force shall consist of twelve (12) members as
18 follows:

19 1. The Commissioner of the Department of Mental Health and
20 Substance Abuse Services, or designee;

21 2. The Commissioner of the State Department of Health, or
22 designee;

23 3. The Speaker of the Oklahoma House of Representatives shall
24 appoint members as follows:

25 a. one member who serves on the Oklahoma House of
26 Representatives Health and Human Services Committee,

27 b. one member who is a mental health and substance abuse
28 expert,

29 c. one member who is a representative of the medical
30 community,

31 d. one member who is a representative of the retail
32 industry, and

1 e. one member who is a teacher; and

2 4. The President Pro Tempore of the State Senate shall appoint
3 members as follows:

4 a. one member who serves on the Senate Health and Human
5 Resources Committee,

6 b. one member who is a representative from the pharmacy
7 community,

8 c. one member who is a representative from the grocers
9 industry,

10 d. one member who is a representative from the
11 manufacturers industry, and

12 e. one member who is the parent of a teen.

13 C. 1. Members shall serve at the pleasure of their appointing
14 authorities. A vacancy on the task force shall be filled by the
15 original appointing authority.

16 2. Appointments to the task force shall be made by July 1,
17 2006.

18 3. A majority of the members of the task force shall constitute
19 a quorum. A majority of the members present at a meeting may act
20 for the task force.

21 4. The Speaker of the Oklahoma House of Representatives and the
22 President Pro Tempore of the State Senate shall each designate a
23 cochair from among the members of the task force.

24 5. The cochairs of the task force shall convene the first
25 meeting of the task force on or before July 15, 2006, at which time
26 a schedule of the meetings shall be determined.

27 D. Staff of the Department of Mental Health and Substance Abuse
28 Services shall serve as staff for the task force. The task force
29 may use the expertise and services of the staffs of the Oklahoma
30 House of Representatives and the Oklahoma State Senate and may, as
31 necessary, seek the advice and services of experts in the field of
32 substance abuse.

1 E. All departments, officers, agencies and employees of this
2 state shall cooperate with the task force in fulfilling its duties
3 and responsibilities including, but not limited to, providing any
4 information, records or reports requested by the task force.

5 F. Members of the task force shall receive no compensation for
6 their service, but shall receive travel reimbursement as follows:

7 1. Legislative members of the task force shall be reimbursed
8 for necessary travel expenses incurred in the performance of their
9 duties in accordance with the provisions of Section 456 of Title 74
10 of the Oklahoma Statutes; and

11 2. Nonlegislative members of the task force shall be reimbursed
12 by their appointing authorities or respective agencies for necessary
13 travel expenses incurred in the performance of their duties in
14 accordance with the State Travel Reimbursement Act.

15 G. The Task Force on Teen Abuse and Misuse of Drugs and
16 Household Items shall study the prevalence of the misuse and abuse
17 of drugs and household items among teens residing in Oklahoma. The
18 Task Force shall also study mechanisms to prevent abuse and misuse
19 of drugs and household items including, but not limited to,
20 education of parents, teachers and teens, drug treatment and
21 prevention programs, and retail restrictions.

22 H. The task force shall publish its findings and
23 recommendations by September 1, 2007, including recommendations for
24 any resulting legislation.

25 SECTION 3. This act shall become effective November 1, 2006.

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