

**EHB 2485**

**THE STATE SENATE**  
**Wednesday, April 12, 2006**

**ENGROSSED**

**House Bill No. 2485**

**As Amended**

ENGROSSED HOUSE BILL NO. 2485 - By: NANCE, SULLIVAN, GLENN, WRIGHT,  
BALKMAN, DANK, SHELTON and BROWN of the House and LASTER of the  
Senate.

[ public health and safety - amending 63 O.S., Section 2-101  
- Uniform Controlled Dangerous Substances Act -  
codification -  
**emergency ]**

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

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

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

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:

- a. a practitioner (or, in the presence of the  
practitioner, by the authorized agent of the  
practitioner), or

1           b.    the patient or research subject at the direction and  
2                    in the presence of the practitioner;

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

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

14          4.    "Bureau" means the Oklahoma State Bureau of Narcotics and  
15   Dangerous Drugs Control;

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

20          6.    "Commissioner" or "Director" means the Director of the  
21   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, Section 2-101 et seq. of this  
7 title;

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

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

18       11. "Dispense" means to deliver a controlled dangerous  
19 substance to an ultimate user or human research subject by or  
20 pursuant to the lawful order of a practitioner, including the  
21 prescribing, administering, packaging, labeling or compounding  
22 necessary to prepare the substance for such distribution.

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

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

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

10 14. "Drug" means articles:

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

22 provided, however, the term "drug" does not include devices or their  
23 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  
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 profit, medically directed,  
21 nurse-coordinated program if such program is licensed pursuant to  
22 the provisions of this act. A hospice program offers palliative and  
23 supportive care to meet the special needs arising out of the

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

- 1 c. whether the substance is packaged in a manner normally  
2 used for illicit controlled substances,  
3 d. evasive tactics or actions utilized by the owner or  
4 person in control of the substance to avoid detection  
5 by law enforcement authorities,  
6 e. prior convictions, if any, of an owner, or any other  
7 person in control of the object, under state or  
8 federal law related to controlled substances or fraud,  
9 and  
10 f. the proximity of the substances to controlled  
11 dangerous substances;

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

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

22 22. "Manufacture" means the production, preparation,  
23 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;

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

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

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

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

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

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

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

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

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

3           32. "Practitioner" means:

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

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

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

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

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

20           a. kits used, intended for use, or fashioned specifically  
21               for use in planting, propagating, cultivating, growing  
22               or harvesting of any species of plant which is a

1 controlled dangerous substance or from which a  
2 controlled dangerous substance can be derived,  
3 b. kits used, intended for use, or fashioned specifically  
4 for use in manufacturing, compounding, converting,  
5 producing, processing or preparing controlled  
6 dangerous substances,  
7 c. isomerization devices used, intended for use, or  
8 fashioned specifically for use in increasing the  
9 potency of any species of plant which is a controlled  
10 dangerous substance,  
11 d. testing equipment used, intended for use, or fashioned  
12 specifically for use in identifying, or in analyzing  
13 the strength, effectiveness or purity of controlled  
14 dangerous substances,  
15 e. scales and balances used, intended for use, or  
16 fashioned specifically for use in weighing or  
17 measuring controlled dangerous substances,  
18 f. diluents and adulterants, such as quinine  
19 hydrochloride, mannitol, mannite, dextrose and  
20 lactose, used, intended for use, or fashioned  
21 specifically for use in cutting controlled dangerous  
22 substances,

- 1           g.    separation gins and sifters used, intended for use, or  
2                    fashioned specifically for use in removing twigs and  
3                    seeds from, or in otherwise cleaning or refining,  
4                    marihuana,
- 5           h.    blenders, bowls, containers, spoons and mixing devices  
6                    used, intended for use, or fashioned specifically for  
7                    use in compounding controlled dangerous substances,
- 8           i.    capsules, balloons, envelopes and other containers  
9                    used, intended for use, or fashioned specifically for  
10                   use in packaging small quantities of controlled  
11                   dangerous substances,
- 12          j.    containers and other objects used, intended for use,  
13                   or fashioned specifically for use in parenterally  
14                   injecting controlled dangerous substances into the  
15                   human body,
- 16          k.    hypodermic syringes, needles and other objects used,  
17                   intended for use, or fashioned specifically for use in  
18                   parenterally injecting controlled dangerous substances  
19                   into the human body,
- 20          l.    objects used, intended for use, or fashioned  
21                   specifically for use in ingesting, inhaling or  
22                   otherwise introducing marihuana, cocaine, hashish or  
23                   hashish oil into the human body, such as:

- 1 (1) metal, wooden, acrylic, glass, stone, plastic or  
2 ceramic pipes with or without screens, permanent  
3 screens, hashish heads or punctured metal bowls,  
4 (2) water pipes,  
5 (3) carburetion tubes and devices,  
6 (4) smoking and carburetion masks,  
7 (5) roach clips, meaning objects used to hold burning  
8 material, such as a marihuana cigarette, that has  
9 become too small or too short to be held in the  
10 hand,  
11 (6) miniature cocaine spoons and cocaine vials,  
12 (7) chamber pipes,  
13 (8) carburetor pipes,  
14 (9) electric pipes,  
15 (10) air-driven pipes,  
16 (11) chillums,  
17 (12) bongs, or  
18 (13) icepipes or chillers,  
19 m. all hidden or novelty pipes, and  
20 n. any pipe that has a tobacco bowl or chamber of less  
21 than one-half (1/2) inch in diameter in which there is  
22 any detectable residue of any controlled dangerous

1 substance as defined in this section or any other  
2 substances not legal for possession or use;  
3 provided, however, the term "drug paraphernalia" shall not include  
4 separation gins intended for use in preparing tea or spice, clamps  
5 used for constructing electrical equipment, water pipes designed for  
6 ornamentation in which no detectable amount of an illegal substance  
7 is found or pipes designed and used solely for smoking tobacco,  
8 traditional pipes of an American Indian tribal religious ceremony,  
9 or antique pipes that are thirty (30) years of age or older;

10 37. "Synthetic controlled substance" means a substance, whether  
11 synthetic or naturally occurring, that is not a controlled dangerous  
12 substance, but which produces a like or similar physiological or  
13 psychological effect on the human central nervous system that  
14 currently has no accepted medical use in treatment in the United  
15 States and has a potential for abuse. The court or authority  
16 concerned with establishing that the substance is a synthetic  
17 controlled substance should consider, in addition to all other  
18 factors, the following factors as related to "representations made"  
19 in determining whether the substance is a synthetic controlled  
20 substance:

21 a. statements made by an owner or by any other person in  
22 control of the substance concerning the nature of the  
23 substance, its use or effect,

- 1           b. statements made to the recipient that the substance  
2           may be resold for an inordinate profit,  
3           c. prior convictions, if any, of an owner or any person  
4           in control of the substance, under state or federal  
5           law related to controlled dangerous substances, and  
6           d. the proximity of the substance to any controlled  
7           dangerous substance.

8 Any evidence that a substance including, but not limited to, salvia  
9 divinorum has been enhanced, concentrated or chemically or  
10 physically altered shall be a rebuttable presumption that the  
11 substance is a synthetic controlled substance;

12       38. "Tetrahydrocannabinols" means all substances that have been  
13 chemically synthesized to emulate the tetrahydrocannabinols of  
14 marihuana;

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

22       40. "Hazardous materials" means materials, whether solid,  
23 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; and

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

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

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

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

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

14 2. The Commissioner of the State Department of Health, or  
15 designee;

16 3. The Speaker of the Oklahoma House of Representatives shall  
17 appoint members as follows:

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

20 b. one member who is a mental health and substance abuse  
21 expert,

22 c. one member who is a representative of the medical  
23 community,

1           d.    one member who is a representative of the retail  
2                    industry, and

3           e.    one member who is a teacher; and

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

6           a.    one member who serves on the Senate Health and Human  
7                    Resources Committee,

8           b.    one member who is a representative from the pharmacy  
9                    community,

10          c.    one member who is a representative from the grocers  
11                    industry,

12          d.    one member who is a representative from the  
13                    manufacturers industry, and

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

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

18          2.    Appointments to the task force shall be made by July 1,  
19 2006.

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

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

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

7           D. Staff of the Department of Mental Health and Substance Abuse  
8 Services shall serve as staff for the task force. The task force  
9 may use the expertise and services of the staffs of the Oklahoma  
10 House of Representatives and the Oklahoma State Senate and may, as  
11 necessary, seek the advice and services of experts in the field of  
12 substance abuse.

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

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

19           1. Legislative members of the task force shall be reimbursed  
20 for necessary travel expenses incurred in the performance of their  
21 duties in accordance with the provisions of Section 456 of Title 74  
22 of the Oklahoma Statutes; and

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

5           G. The Task Force on Teen Abuse and Misuse of Drugs and  
6 Household Items shall study the prevalence of the misuse and abuse  
7 of drugs and household items among teens residing in Oklahoma. The  
8 Task Force shall also study mechanisms to prevent abuse and misuse  
9 of drugs and household items including, but not limited to,  
10 education of parents, teachers and teens, drug treatment and  
11 prevention programs, and retail restrictions.

12           H. The task force shall publish its findings and  
13 recommendations by September 1, 2007, including recommendations for  
14 any resulting legislation.

15           **SECTION 3. It being immediately necessary for the preservation**  
16 **of the public peace, health and safety, an emergency is hereby**  
17 **declared to exist, by reason whereof this act shall take effect and**  
18 **be in full force from and after its passage and approval.**

19 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated  
20 4-6-06 - DO PASS, As Amended.