

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2762

By: Perry

AS INTRODUCED

An Act relating to possession and use of alcohol and other intoxicating substances by persons under twenty-one years of age; prohibiting certain acts, with exception; providing penalty; creating cause of action; limiting scope of action; defining term; requiring school principals to give certain notice to parent or legal guardian within certain time; amending 70 O.S. 2001, Section 24-102, which relates to searches; requiring certain searches at least once a semester and at other times; amending 63 O.S. 2001, Sections 938 and 940, which relate to investigation of deaths; expanding list of types of deaths requiring investigation; requiring that written reports of certain deaths be filed within certain time; requiring that copy of report be given to certain persons; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8.2 of Title 37, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, no person shall knowingly permit any individual under twenty-one (21) years of age who is an invitee in the person's residence, in any building, structure, or room, owned, occupied, leased or otherwise procured by the person or on any land, owned, occupied, leased or otherwise procured by the person, to possess or consume any alcoholic beverage as defined by Section 506 of Title 37 of the Oklahoma Statutes, any low-point beer as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, or any combination thereof, in such place.

B. The provisions of this section shall not prohibit a person who is the parent or legal guardian of an individual under twenty-one (21) years of age from allowing that child to possess or consume alcoholic beverages or low-point beer within the residence of the parent or guardian. The provisions of this section shall not apply to a person who permits an individual under twenty-one (21) years of age to ingest any drug that is legally prescribed for that individual.

C. Any person violating this section shall be guilty of a felony, punishable by imprisonment in the State Penitentiary for not more than five (5) years, a fine of not less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 8.3 of Title 37, unless there is created a duplication in numbering, reads as follows:

A. An aggrieved party shall have a cause of action against a person who knowingly permits any individual under twenty-one (21) years of age who is an invitee in the person's residence, in any building, structure, or room, owned, occupied, leased or otherwise procured by the person or on any land, owned, occupied, leased or otherwise procured by the person, to possess or consume any alcoholic beverage as defined by Section 506 of Title 37 of the Oklahoma Statutes, any low-point beer as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, or any combination thereof, in such place, if the jury or court finds that the alcoholic beverage, low-point beer, or controlled dangerous substance was possessed or consumed by the individual under twenty-one (21) years of age, the possession or consumption occurred at the residence, any building, structure, or room owned, occupied or procured by the person against whom the cause of action

is brought, or on any land owned, occupied or procured by the person against whom the cause of action is brought, and the consumption of the alcoholic beverage, low-point beer, or controlled dangerous substance was a proximate cause of the damages sustained by the aggrieved party.

B. The provisions of this section shall not apply to a person who permits an individual under twenty-one (21) years of age to ingest any drug that is legally prescribed for that individual.

C. As used in this section, "aggrieved party" means a party who sustains damages as a consequence of a person permitting an individual under twenty-one (21) years of age to possess or consume any alcoholic beverage, low-point beer, or controlled dangerous substance in that person's residence, any structure owned, leased or otherwise procured by the person, or on any land owned, leased or otherwise procured by the person. It does not include a person who aids or abets in the procurement of the alcoholic beverage, low-point beer, or controlled dangerous substance nor does it include the person who permitted the use of that person's residence, any structure owned, leased or otherwise procured by the person, or on any land owned, leased or otherwise procured by the person.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 24-101.5 of Title 70, unless there is created a duplication in numbering, reads as follows:

If a student is found to be in possession of any alcoholic beverage as defined by Section 506 of Title 37 of the Oklahoma Statutes, any low-point beer as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, or any combination thereof, the principal of the school shall notify the parent or legal guardian of the student within twenty-four (24) hours of the discovery.

SECTION 4. AMENDATORY 70 O.S. 2001, Section 24-102, is amended to read as follows:

Section 24-102. The superintendent, principal, teacher, or security personnel of any public school in the State of Oklahoma, ~~upon reasonable suspicion,~~ shall have the authority to detain and search or authorize the search, of any pupil or property in the possession of the pupil when said pupil is on any school premises, or while in transit under the authority of the school, or while attending any function sponsored or authorized by the school, for dangerous weapons, controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, intoxicating beverages, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or for missing or stolen property if said property be reasonably suspected to have been taken from a pupil, a school employee or the school during school activities. The search of the student shall be conducted by a person of the same sex as the person being searched and shall be witnessed by at least one other authorized person, said person to be of the same sex if practicable.

The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. In no event shall a strip search of a student be allowed. No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search.

The superintendent, principal, teacher, or security personnel searching or authorizing the search shall have authority to detain the pupil to be searched and to preserve any dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property that might be in the pupil's possession including the authority to authorize any other persons they deem necessary to restrain such pupil or to preserve any

dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property. Students found to be in possession of such an item shall be subject to the provisions of Section 24-101.3 of this title.

A search as provided for in this section of school premises shall occur at least once a semester and also at any time that the superintendent, principal, teacher, or security personnel of the school has reasonable suspicion that dangerous weapons, controlled dangerous substances, intoxicating beverages, low-point beer, or missing or stolen property will be found.

The superintendent, principal, teacher, or security personnel of a school shall have the authority to contact a law enforcement agency to assist in the search of school premises.

Pupils shall not have any reasonable expectation of privacy towards school administrators or teachers in the contents of a school locker, desk, or other school property. School personnel shall have access to school lockers, desks, and other school property in order to properly supervise the welfare of pupils. School lockers, desks, and other areas of school facilities may be opened and examined by school officials at any time and no reason shall be necessary for such search. Schools shall inform pupils in the student discipline code that they have no reasonable expectation of privacy rights towards school officials in school lockers, desks, or other school property.

SECTION 5. AMENDATORY 63 O.S. 2001, Section 938, is amended to read as follows:

Section 938. A. All human deaths of the types listed herein shall be investigated as provided by law:

1. Violent deaths, whether apparently homicidal, suicidal, or accidental, including but not limited to, deaths due to thermal, chemical, electrical, or radiational injury, and deaths due to criminal abortion, whether apparently self-induced or not;

2. Deaths under suspicious, unusual or unnatural circumstances;
3. Deaths related to disease which might constitute a threat to public health;
4. Deaths unattended by a licensed medical or osteopathic physician for a fatal or potentially-fatal illness;
5. Deaths of persons after unexplained coma;
6. Deaths that are medically unexpected and that occur in the course of a therapeutic procedure;
7. Deaths of persons under the age of twenty-one (21) under circumstances that appear to be due to consumption of any intoxicating substance;
8. Deaths of any inmates occurring in any place of penal incarceration; and
- ~~8.~~ 9. Deaths of persons whose bodies are to be cremated, buried at sea, transported out of the state, or otherwise made ultimately unavailable for pathological study.

B. No autopsy shall be performed on the body of an executed inmate unless requested by the immediate family of the inmate prior to the execution or unless directed by the Department of Corrections or the Chief Medical Examiner. The Chief Medical Examiner shall not automatically authorize or perform an autopsy in conjunction with an investigation of death of an inmate that resulted from a scheduled execution due to a death sentence imposed pursuant to Title 21 of the Oklahoma Statutes. The Chief Medical Examiner may authorize or perform such an autopsy only when the public interest requires it. The provisions of this subsection shall not prohibit an inmate from donating, in writing, his or her body to a teaching medical institution for scientific or research purposes.

C. The Chief Medical Examiner shall state on the certificate of death of all persons whose death was caused by execution pursuant to a lawful court order that the cause of death was the execution of such order.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 940, is

amended to read as follows:

Section 940. A. All law enforcement officers and other state and county officials shall cooperate with the Chief Medical Examiner and all other medical examiners in making investigations required pursuant to the provisions of Sections 931 through 954 of this title. Said officials and the physician in attendance of the deceased, or other persons when the deceased was unattended by a physician, shall promptly notify the medical examiner of the occurrence of all deaths coming to their attention which, pursuant to the provisions of Sections 931 through 954 of this title, are subject to investigation, and shall assist in making dead bodies and related evidence available for investigation. In the case of the death of a person under twenty-one (21) years of age, any law enforcement officer investigating the death shall file a written report, including approximate time of death, as established by the Chief Medical Examiner, the designee of the Chief Medical Examiner, or a county medical examiner, within thirty-six (36) hours after completion of the investigation, if the person appears to have died due to consumption of alcohol, drugs, or a combination thereof. A copy of the report shall be made available to the parent or legal guardian of the person.

The scene of a death subject to the provisions of Sections 931 through 954 of this title shall not be disturbed until authorized by the Chief Medical Examiner, his designee, or a county medical examiner, and the representative of any law enforcement agency which has begun an investigation of the cause of death. Said authorization may be given by telephone. Nothing in Sections 931 through 954 of this title shall prevent the district attorney or his designee from authorizing the removal of a body when the removal is determined by him to be in the public interest and conditions at the

scene are adequately documented and preserved by photographs and measurements.

B. The death of any patient, inmate, ward, or veteran in a state hospital or other institution, except Oklahoma Medical Center Hospitals and Clinics thereof, shall be reported by the chief administrative officer of the hospital or institution or his designee to the Office of the Chief Medical Examiner at the time of the death and prior to release of the body.

1. Within thirty-six (36) hours, a written report shall be submitted and shall be accompanied by true and correct copies of all medical records of the hospital or institution concerning the deceased patient.

2. The Chief Medical Examiner shall have the authority to require production of any records, documents, or equipment or other items regarding the deceased patient deemed necessary to investigate the death.

C. In the case of the death of a person under twenty-one (21) years of age who appears to have died due to consumption of alcohol, drugs, or a combination thereof, the Chief Medical Examiner, the designee of the Chief Medical Examiner, or a county medical examiner, shall produce the toxicology report within thirty (30) days after receiving the toxicology test results. A copy of the report shall be made available to the parent or legal guardian of the person.

SECTION 7. This act shall become effective November 1, 2006.

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