

ENROLLED SENATE
BILL NO. 1961

By: Sykes of the Senate

and

Terrill, Blackwell,
Duncan, Wesselhoft,
Wright, Reynolds and Tibbs
of the House

An Act relating to controlled dangerous substances; creating the Drug Money Laundering and Wire Transmitter Act; providing short title; granting authority to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to access and investigate certain applications, reports, and transactions for certain purpose; directing Bureau to conduct criminal financial records checks on registration applicants for certain fee; directing applicant to pay fee; requiring copy of certain reports be provided to Bureau; prohibiting certain financial transaction; prohibiting certain sale or transfer of equipment to certain persons; setting penalty; prohibiting certain access to money transmitter equipment; setting penalty; prohibiting use of money services business for certain purposes; prohibiting transmissions, exchanges or processes for certain purposes; prohibiting certain reporting requirement evasions or attempted evasions; prohibiting the structuring, or the attempt to structure, certain transactions; providing definitions; setting penalties; providing authority to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to intercept, seize and forfeit certain funds and equipment; amending 63 O.S. 2001, Section 2-106, which relates to authority of the Director of the Oklahoma State Bureau of

Narcotics and Dangerous Drugs Control; authorizing the purchase and sale of certain property; authorizing the sale or donation of certain equipment and property to certain entities; authorizing establishment of employee recognition programs; authorizing expenditure of funds for certain purposes; providing for codification; providing an effective date; and declaring an emergency.

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 2-503.1a of Title 63, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 9 of this act shall be known and may be cited as the "Drug Money Laundering and Wire Transmitter Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-503.1b of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall conduct a criminal financial check on all registration applications submitted pursuant to the provisions of Section 1513 of Title 6 of the Oklahoma Statutes. The applicant for a money services business license shall pay a fee of Fifty Dollars (\$50.00) to the Bureau for the criminal financial check prior to licensing. This shall be in addition to all other administrative fees imposed by the Oklahoma Banking Department.

B. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall have authority to access, review and investigate any registration application and supplier reports submitted to the Oklahoma State Banking Commissioner pursuant to Section 1513 of Title 6 of the Oklahoma Statutes, for the purposes of criminal financial checks, identifying or investigating suspicious or illegal activities or to track illegal drug-related monies. A copy of all

money services transaction reports provided to the Oklahoma State Banking Commissioner shall be provided to the Bureau.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-503.1c of Title 63, unless there is created a duplication in numbering, reads as follows:

No person shall conduct or attempt to conduct a financial transaction knowing that the property involved in such a financial transaction represents the proceeds of some form of unlawful activity related to any violation of Sections 2-101 through 2-608 of Title 63 of the Oklahoma Statutes while:

1. Acting with the intent to promote the continuation of the specified unlawful activity;
2. Acting with the intent to engage in conduct which violates Sections 2-101 through 2-608 of Title 63 of the Oklahoma Statutes;
3. Acting with the knowledge that the transaction is designed in whole or part to disguise the nature, location, source, ownership, or control of the proceeds of the specified unlawful activity; or
4. Acting with the knowledge that the transaction is designed in whole or part to avoid a transaction reporting requirement.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-503.1d of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No person shall sell, give, transfer, trade, supply, or provide any money transmitter equipment, as defined by the Oklahoma Financial Transaction Reporting Act, to any person not licensed by the Oklahoma State Banking Commissioner. Any person violating the provisions of this section shall be guilty upon conviction of a misdemeanor, for a first offense, and a felony for any second or subsequent offense. The misdemeanor penalty shall be a fine not exceeding Three Thousand Dollars (\$3,000.00), or imprisonment in the county jail not to exceed one (1) year, or both such fine and imprisonment. The felony penalty shall be imprisonment in the custody of the Department of Corrections for five (5) years, or a

fine not exceeding Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

B. Any person who encourages, facilitates, or allows access to any money transmitter equipment in any manner to facilitate any violation of Section 2-503.1 of Title 63 of the Oklahoma Statutes shall be guilty of a felony, upon conviction, punishable as provided in Section 8 of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-503.1e of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Any person who knowingly or intentionally uses a money services business, as defined by the Oklahoma Financial Transaction Reporting Act, or an electronic funds transfer network for any purpose in violation of Section 2-503.1 of Title 63 of the Oklahoma Statutes or Sections 1 through 9 of this act, or with intent to facilitate any violation of the Uniform Controlled Dangerous Substances Act or any statute of the United States relating to controlled substances, or to commit any other crime shall be guilty, upon conviction, of a felony.

B. Any person who, by or through a money services business, as defined in the Oklahoma Financial Transaction Reporting Act, or an electronic funds transfer network, knowingly transmits, exchanges, or processes any securities or negotiable instruments for any purpose in violation of Section 2-503.1 of Title 63 of the Oklahoma Statutes or Sections 1 through 9 of this act shall be guilty, upon conviction, of a felony.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-503.1f of Title 63, unless there is created a duplication in numbering, reads as follows:

No person shall, for the purpose of evading the reporting requirements set forth in 31 U.S.C., Section 5311, 31 C.F.R., Part 103, Title 6 or Sections 2-101 through 2-608 of Title 63 of the Oklahoma Statutes, or other federal laws pertaining to money laundering:

1. Cause or attempt to cause the failure to file a report required under Title 6 or Title 63 of the Oklahoma Statutes, or federal monetary reporting requirements under law; or

2. Cause or attempt to cause the filing of a report required under Title 6 or Title 63 of the Oklahoma Statutes, or federal monetary reporting requirements under law, that contains a material omission or misstatement of fact.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-503.1g of Title 63, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to structure, assist in structuring, attempt to structure, or attempt to assist in structuring any transaction with one or more financial or nonfinancial trades or businesses, to include any importation or exportation of monetary instruments.

B. It shall be unlawful for any person to structure or assist in structuring, or attempt to structure or assist in structuring any transaction with one or more organizations that have a monetary reporting requirement under federal law or under Title 6 or Sections 2-101 through 2-608 of Title 63 of the Oklahoma Statutes.

C. For purposes of this section, "structuring" means a person who, acting alone, in conjunction with others, or on behalf of others, conducts or attempts to conduct one or more transactions in currency, in any amount, at one or more organizations that have a monetary reporting requirement under federal law or under Title 6 or Title 63 of the Oklahoma Statutes, on one or more days, for the purpose of evading the reporting requirements of any federal law or any provision of Title 6 or Title 63 of the Oklahoma Statutes requiring reporting of financial transactions.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-503.1h of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Unless otherwise provided, any person convicted of violating any of the provisions of this act is guilty of a felony and may be punished by imprisonment for not less than two (2) years nor more

than ten (10) years or by a fine of not more than Fifty Thousand Dollars (\$50,000.00) or an amount equal to twice the dollar amount of each transaction, whichever is greater, or by both such fine and imprisonment.

B. For the purposes of this act, the terms, "money transmitter equipment" or a "money transmitter service" shall include an entity or person engaged in activity in violation of these provisions regardless of whether the person or entity is licensed to conduct such activity under the Oklahoma Financial Transaction Reporting Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-503.1i of Title 63, unless there is created a duplication in numbering, reads as follows:

The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall have authority to intercept, seize and forfeit any funds or equipment in violation of any provision of the Drug Money Laundering and Wire Transmitter Act or in violation of Section 2-503.1 of Title 63 of the Oklahoma Statutes.

SECTION 10. AMENDATORY 63 O.S. 2001, Section 2-106, is amended to read as follows:

Section 2-106. A. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall, in addition to other powers and duties vested in ~~him~~ the Director:

1. Cooperate with federal and other state agencies in discharging his responsibilities concerning traffic in narcotics and dangerous substances and in suppressing the abuse of dangerous substances;

2. Arrange for the exchange of information between governmental officials concerning the use and abuse of dangerous substances;

3. Coordinate and cooperate in training programs on dangerous substances law enforcement at the local and state levels;

4. Cooperate with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control by establishing a centralized unit which

will accept, catalog, file and collect statistics, including records of drug-dependent persons and other dangerous substance law offenders within the state, and make such information available for federal, state and local law enforcement purposes; and may collect and furnish statistics for other appropriate purposes; and

5. Coordinate and cooperate in programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted.

B. Results, information and evidence received from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control relating to the regulatory functions of this act, including results of inspections conducted by that agency, may be relied upon and acted upon by the Director in conformance with his regulatory functions under this act.

C. The Director is further authorized and directed to:

1. Coordinate and cooperate in educational programs designed to prevent and deter misuse and abuse of controlled dangerous substances;

2. Promote better recognition of the problems of misuse and abuse of controlled dangerous substances within the regulated industry and among interested groups and organizations;

3. Assist the regulated industry, interested groups and organizations in contributing to the reduction of misuse and abuse of controlled dangerous substances;

4. Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

5. Assist in evaluating procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse and abuse of controlled dangerous substances;

6. Disseminate the results of research on misuse and abuse of controlled dangerous substances to promote a better public understanding of what problems exist and what can be done to combat them; ~~and~~

7. Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled dangerous substances₇i

8. Conduct an annual seminar to be attended by selected law enforcement officers in order to teach new techniques and advances in the investigation of violations of the Uniform Controlled Dangerous Substances Act₇i; and

9. Supervise and direct agents appointed in the performance of their function of enforcement of the provisions of this act.

D. The Director is further authorized and directed to:

1. Encourage research on misuse and abuse of controlled dangerous substances;

2. Cooperate in establishing methods to assess accurately the effects of controlled dangerous substances and to identify and characterize controlled dangerous substances with potential for abuse;

3. Cooperate in making studies and in undertaking programs of research to:

a. develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this act₇i,

b. determine patterns of misuse and abuse of controlled dangerous substances and the social effects thereof₇i, and

c. improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled dangerous substances.

E. The Director may enter into contracts with public agencies, institutions of higher education and private organizations or individuals for the purpose of conducting research, demonstrations

or special projects which bear directly on misuse and abuse of controlled dangerous substances.

F. The Director may enter into contracts for educational and research activities without performance bonds.

G. The Director may authorize persons engaged in research or scientific activities on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any state civil, criminal, administrative, legislative or other proceeding to identify the subjects of research for which such authorization was obtained.

H. The Director may authorize the lawful possession, distribution and use of controlled dangerous substances by persons engaged in research or scientific activities; authorization for possession of controlled dangerous substances may be extended to persons engaged in a program of drug education or persons in the performance of an official duty. Persons who obtain this authorization shall be exempt from state prosecution for possession, distribution or use of dangerous substances to the extent authorized by the Director.

I. The Director is authorized to accept gifts, bequests, devises, contributions and grants, public or private, including federal funds or funds from any other source for use in furthering the purpose of the office of the Director.

J. The Director is authorized to purchase or sell real property, together with appurtenances, in the name of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control upon approval of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission.

K. The Director shall be in charge of all monies appropriated for or deposited to the credit of the office of the Director and is authorized to approve claims and payrolls as provided in Section 41.26 of Title 62 of the Oklahoma Statutes.

~~K.~~ L. The Director shall have the authority of a peace officer and is authorized to commission assistants of his office as peace officers.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-106.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, pursuant to rules promulgated by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, is hereby authorized to:

1. Make available for sale used vehicles, used equipment and forfeited property to any federal, state, county, or municipal agency, trust authority or public school district;

2. Sell at public auction any used vehicles, used equipment and any property forfeited to the Bureau; and

3. Donate or transfer title to any surplus property as defined in Section 62.2 of Title 74 of the Oklahoma Statutes, or property forfeited to the Bureau, to any law enforcement agency of any political subdivision of the State of Oklahoma. The use of such donated equipment shall be limited to valid and authorized law enforcement efforts by the receiving agency.

B. Any property subject to this section shall be exempt from the provisions set forth in Section 62.3 of Title 74 of the Oklahoma Statutes.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-111 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control is authorized to establish an employee performance recognition program that encourages outstanding job performance and productivity within the Bureau. The Bureau is authorized to expend funds for:

1. The purchase of recognition awards to be presented to members of work units or individual employees having exceptional job performance records or other significant contributions to the operation of the Bureau;

2. The purchase of recognition awards to be presented to nonemployees of the Bureau in recognition of exemplary service or assistance to the Bureau and law enforcement; and

3. A formal ceremony or banquet where the awards may be presented.

B. Recognition awards may consist of distinctive wearing apparel, service pins, plaques, writing pens, or other distinguished awards of a value not exceeding One Hundred Fifty Dollars (\$150.00) per award to recognize the achievement of the work unit or individual employee. In addition to recognition awards, the Bureau may establish an employee benefit program not exceeding Five Thousand Dollars (\$5,000.00) each fiscal year for cash awards to recognize outstanding performance in the workplace by Bureau employees.

C. To better educate and foster relations as to the Bureau and its mission towards drug reduction, the Bureau may expend funds not exceeding Ten Thousand Dollars (\$10,000.00) each fiscal year for the purpose of distributing educational, demand reduction and commemorative materials bearing the seal of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to nonemployees. Donated items, federal grant money and seizure funds shall not count toward this amount.

SECTION 13. This act shall become effective July 1, 2008.

SECTION 14. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 6th day of May, 2008.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of April, 2008.

Presiding Officer of the House
of Representatives