

THE HOUSE OF REPRESENTATIVES
Thursday, March 6, 2008

Committee Substitute for
House Bill No. 2821

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2821 - By: SULLIVAN of the House and CORN AND LAMB of the Senate.

An Act relating to Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; amending 22 O.S. 2001, Sections 1404 and 1409, which relate to the Oklahoma Corrupt Organizations Prevention Act; authorizing Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to institute civil or criminal proceedings for violation of certain act; directing civil penalties be deposited in certain revolving fund; amending 63 O.S. 2001, Sections 2-103, as last amended by Section 51, Chapter 1, O.S.L. 2007, 2-106, 2-106.1, 2-110, 2-201, 2-301, as amended by Section 3, Chapter 338, O.S.L. 2003, 2-306, 2-307, Section 2, Chapter 288, O.S.L. 2002, as amended by Section 4, Chapter 133, O.S.L. 2003 and 2-511 (63 O.S. Supp. 2007, Sections 2-103, 2-301 and 2-333), which relate to the Uniform Controlled Dangerous Substances Act; modifying appointment power and duties of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; updating agency designation; authorizing the sale, donation or transfer of certain property received by the Bureau; exempting property from certain provisions of the Oklahoma Surplus Property Act; allowing certain Bureau attorneys to carry weapons; prohibiting attorneys from being eligible to participate in certain retirement system; deleting employee classification status provisions; authorizing establishment of employee performance recognition program; authorizing expenditure of funds for certain purposes; providing monetary limitations for recognition awards; authorizing establishment of employee benefit program; authorizing expenditure of funds for distribution of certain materials; deleting references to Commissioner; expanding scope of recoverable damages to include certain entities; authorizing certain funds be used for drug education programs; amending 63 O.S. 2001, Section 683.6, as amended by Section 7, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2007, Section 683.6), which relates to the Oklahoma Emergency Management Act of 2003; modifying membership of the Emergency Management Advisory Council; providing for codification; and providing an effective date.

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

1 SECTION 1. AMENDATORY 22 O.S. 2001, Section 1404, is amended to read
2 as follows:

3 Section 1404. A. Any person convicted of violating any provision of Section 1403 of
4 this title shall be punished by a term of imprisonment of not less than ten (10) years and
5 shall not be eligible for a deferred sentence, probation, suspension, work furlough, or
6 release from confinement on any other basis until the person has served one-half (1/2) of
7 his or her sentence. A violation of each of the provisions of Section 1403 of this title shall
8 be a separate offense.

9 B. In lieu of the fine authorized by the Oklahoma Corrupt Organizations
10 Prevention Act, any person convicted of violating any provision of Section 1403 of this
11 title, through which he derived pecuniary value, or by which he caused personal injury,
12 or property damage or other loss, may be sentenced to pay a fine that does not exceed
13 three times the gross value gained or three times the gross loss caused, whichever is
14 greater, plus court costs and the costs of investigation and prosecution reasonably
15 incurred, less the value of any property ordered forfeited pursuant to the provisions of
16 subsection A of Section 1405 of this title. The district court shall hold a separate hearing
17 to determine the amount of the fine authorized by the provisions of this subsection.

1 C. No person shall institute any proceedings, civil or criminal, pursuant to the
2 provisions of this act, except the Attorney General, the Director of the Oklahoma State
3 Bureau of Narcotics and Dangerous Drugs Control, any district attorney or any district
4 attorney appointed under the provisions of Section 215.9 of Title 19 of the Oklahoma
5 Statutes.

6 SECTION 2. AMENDATORY 22 O.S. 2001, Section 1409, is amended to read
7 as follows:

8 Section 1409. A. The Attorney General, the Director of the Oklahoma State Bureau
9 of Narcotics and Dangerous Drugs Control, any district attorney or any district attorney
10 appointed under the provisions of Section 215.9 of Title 19 of the Oklahoma Statutes may
11 institute civil proceedings against any person in an appropriate district court seeking
12 relief from conduct constituting a violation of any provisions of Section ~~3~~ 1403 of ~~the~~
13 ~~Oklahoma Corrupt Organizations Prevention Act~~ this title with the right to a trial by
14 jury at the request of either party. If the plaintiff in such a proceeding proves the alleged
15 violation by a preponderance of the evidence, the district court, after making due
16 provisions for the rights of innocent parties, may grant relief by entering any appropriate
17 order of judgment, including:

18 1. Ordering any defendant to divest himself of any interest in any enterprise or any
19 real property;

20 2. Imposing reasonable restrictions upon the future activities or investments of any
21 defendant, including prohibiting any defendant from engaging in the same type of

1 endeavor as the enterprise in which he was engaged in violation of Section 3 1403 of the
2 ~~Oklahoma Corrupt Organizations Prevention Act~~ this title;

3 3. Ordering the dissolution or reorganization of any enterprise;

4 4. Ordering the suspension or revocation of a license, permit, or prior approval
5 granted to any enterprise by an agency of the state; or

6 5. Ordering the surrender of the charter of a corporation organized pursuant to the
7 laws of the state or the revocation of a certificate authorizing a foreign corporation to
8 conduct business within the state.

9 In a proceeding initiated pursuant to the provisions of this section, injunctive relief
10 shall be granted in conformity with the principles that govern the granting of relief from
11 injury or threatened injury in other cases, but no showing of special or irreparable injury
12 shall be required. Pending final determination of a proceeding initiated pursuant to the
13 provisions of this section, a temporary restraining order or a preliminary injunction may
14 be issued upon a showing of immediate danger of significant injury, including the
15 possibility that any judgment for money damages might be difficult to execute, and, in a
16 proceeding initiated by an aggrieved person, upon the execution of a bond in the amount
17 of ten percent (10%) of the value of the property against injury for an injunction
18 improvidently granted. If the district court issues an injunction or grants other relief
19 pursuant to the provisions of this section, the plaintiff shall also recover costs, including
20 reasonable attorney fees and costs of investigation and litigation reasonably incurred.

21 B. The civil penalty imposed pursuant to this section shall not exceed One Hundred
22 Thousand Dollars (\$100,000.00) with no offset for the value of any property criminally

1 forfeited or any fine imposed pursuant to the Oklahoma Corrupt Organizations
2 Prevention Act. This amount shall be applied to the costs and expenses of investigation
3 and prosecution, and the balance, if any, shall be paid pursuant to the provisions of the
4 Oklahoma Corrupt Organizations Prevention Act. Civil penalties imposed in cases
5 brought on behalf of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
6 Control shall be deposited in the Bureau of Narcotics Revolving Fund, established
7 pursuant to Section 2-107 of Title 63 of the Oklahoma Statutes.

8 C. Upon the filing of a civil action pursuant to the provisions of subsection A or B of
9 this section, a district attorney shall immediately notify the Attorney General of its
10 filing. Upon timely application, the Attorney General may intervene as a party in any
11 civil action or proceeding brought pursuant to subsection A or B of this section if the
12 Attorney General certifies that the action or proceeding is of general public importance.

13 D. A final judgment or decree rendered against the defendant in any civil or
14 criminal proceeding pursuant to the provisions of the Oklahoma Corrupt Organizations
15 Prevention Act, shall estop the defendant in any subsequent civil action or proceeding
16 brought by any person as to all matters as to which the judgment or decree would be an
17 estoppel as between the parties to a civil or criminal proceeding.

18 E. A civil action or proceeding pursuant to the provisions of the Oklahoma Corrupt
19 Organizations Prevention Act may be commenced at any time within five (5) years after
20 the conduct made unlawful pursuant to the provisions of Section ~~3~~ 1403 of ~~the Oklahoma~~
21 ~~Corrupt Organizations Prevention Act~~ this title terminates or the cause of action accrues.
22 If a criminal proceeding or civil action or other proceeding is brought by or intervention is

1 granted to the state to punish, prevent, or restrain any activity made unlawful pursuant
2 to the provisions of Section 3 1403 of the ~~Oklahoma Corrupt Organizations Prevention~~
3 ~~Act~~ this title, the running of the period of limitations prescribed by this section with
4 respect to any cause of action of an aggrieved person, based in whole or in part upon any
5 matter complained of in any such prosecution, action, or proceeding shall be suspended
6 during the pendency of such prosecution, action, or proceeding and for two (2) years
7 following its termination.

8 F. Service of process in an action pursuant to the provisions of this section may be
9 made upon any person outside the state if the person was a principal in any conduct
10 constituting a violation of the provisions of the Oklahoma Corrupt Organizations
11 Prevention Act in this state. The person shall be deemed to have thereby submitted
12 himself to the jurisdiction of the courts of this state for the purposes of this section.

13 G. The application of any civil remedy pursuant to the provisions of this section
14 shall not preclude the application of any other civil or criminal remedy pursuant to the
15 provisions of the Oklahoma Corrupt Organizations Prevention Act or any other provision
16 of law. Civil remedies pursuant to the provisions of this section are supplemental and
17 not mutually exclusive.

18 SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-103, as last amended by
19 Section 51, Chapter 1, O.S.L. 2007 (63 O.S. Supp. 2007, Section 2-103), is amended to
20 read as follows:

21 Section 2-103. A. The Director shall be appointed by the Oklahoma State Bureau
22 of Narcotics and Dangerous Drugs Control Commission. The Director of Narcotics and

1 Dangerous Drugs Control on January 1, 1984, shall be initially appointed as Director.
2 The succeeding Director shall, at the time of the appointment, have a Bachelor's Degree
3 from an accredited college or university and at least five (5) years' experience in drug law
4 enforcement. The Director may appoint necessary assistants, agents, and other
5 personnel to perform the work of the office and may prescribe their titles and duties and
6 fix their compensation, other than the salaries established in subsection A of Section 2-
7 103a of this title, pursuant to Merit System rules. The Director may appoint employees
8 to the positions of Public Information/Education Officer, Training Officer, Program
9 Administrator, Grants Administrator, Criminal Analysts, Legal Secretary, and Typist
10 Clerk/Spanish Transcriptionists. Said positions shall be unclassified and exempt from
11 the rules and procedures of the Office of Personnel Management, except leave
12 regulations. The office of the Director shall be located at a suitable place in Oklahoma
13 City, Oklahoma.

14 B. 1. Agents appointed by the Director shall have the powers of peace officers
15 generally; provided, the Director may appoint special agents, who shall be unclassified
16 employees of the state, to meet specific investigatory need. Special agents shall not be
17 required to meet the age and educational requirements as specified in this section.

18 2. Agents appointed on and after November 1, 1998, shall be at least twenty-one
19 (21) years of age and shall have a Bachelor's Degree from an accredited college or
20 university.

1 3. Each entering agent, with the exception of special agents, shall be required to
2 serve one (1) year in a probationary status as a prerequisite to being placed on
3 permanent status.

4 C. Agents appointed pursuant to the provisions of this section shall have the
5 responsibility of investigating alleged violations and shall have the authority to arrest
6 those suspected of having violated the provisions of the Uniform Controlled Dangerous
7 Substances Act.

8 D. A commissioned employee of the Oklahoma State Bureau of Narcotics and
9 Dangerous Drugs Control shall be entitled to receive upon retirement by reason of length
10 of service, the continued custody and possession of the sidearm and badge carried by
11 such employee immediately prior to retirement.

12 E. A commissioned employee of the Bureau may be entitled to receive, upon
13 retirement by reason of disability, the continued custody and possession of the sidearm
14 and badge carried by such employee immediately prior to retirement upon written
15 approval of the Director.

16 F. Custody and possession of the sidearm and badge of a commissioned employee
17 killed in the line of duty may be awarded by the Director to the spouse or next of kin of
18 the deceased employee.

19 G. Custody and possession of the sidearm and badge of a commissioned employee
20 who dies while employed at the Oklahoma State Bureau of Narcotics and Dangerous
21 Drugs Control may be awarded by the Director to the spouse or next of kin of the
22 deceased employee.

1 H. Any Director appointed on or after July 1, 2003, shall be eligible to participate
2 in either the Oklahoma Public Employees Retirement System or in the Oklahoma Law
3 Enforcement Retirement System and shall make an irrevocable election in writing to
4 participate in one of the two retirement systems.

5 SECTION 4. AMENDATORY 63 O.S. 2001, Section 2-106, is amended to read
6 as follows:

7 Section 2-106. A. The Director shall, in addition to other powers and duties vested
8 in him:

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

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

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

16 4. Cooperate with the Bureau of Narcotics and Dangerous Drugs by establishing a
17 centralized unit which will accept, catalogue, file and collect statistics, including records
18 of drug dependent persons and other dangerous substance law offenders within the state,
19 and make such information available for federal, state and local law enforcement
20 purposes; and may collect and furnish statistics for other appropriate purposes; and

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

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

8 C. The Director is further authorized and directed to:

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

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

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

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

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

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

4 7. Assist in the education and training of state and local law enforcement officials
5 in their efforts to control misuse and abuse of controlled dangerous substances;₂

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

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

11 D. The Director is further authorized and directed to:

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

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

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

17 a. develop new or improved approaches, techniques, systems, equipment
18 and devices to strengthen the enforcement of this act;₂

19 b. determine patterns of misuse and abuse of controlled dangerous
20 substances and the social effects thereof;₂ and

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

1 E. The Director may enter into contracts with public agencies, institutions of
2 higher education and private organizations or individuals for the purpose of conducting
3 research, demonstrations or special projects which bear directly on misuse and abuse of
4 controlled dangerous substances.

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

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

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

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

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

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

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

10 SECTION 5. AMENDATORY 63 O.S. 2001, Section 2-106.1, is amended to
11 read as follows:

12 Section 2-106.1 The Oklahoma State Bureau of Narcotics and Dangerous Drugs
13 Control is hereby authorized to lease the seaplane owned by said Bureau. Said lease
14 shall not be subject to the provisions of Section 85.5 of Title 74 of the Oklahoma Statutes
15 and shall not have to be approved by the ~~Office~~ Department of ~~Public Affairs~~ Central
16 Services.

17 SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma
18 Statutes as Section 2-106.2 of Title 63, unless there is created a duplication in
19 numbering, reads as follows:

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

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

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

5 3. Donate or transfer title to any surplus property as defined in Section 62.2 of Title
6 74 of the Oklahoma Statutes, or property forfeited to the Bureau, to any law enforcement
7 agency of any political subdivision of the State of Oklahoma. The use of such donated
8 equipment shall be limited to valid and authorized law enforcement efforts by the
9 receiving agency.

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

12 SECTION 7. AMENDATORY 63 O.S. 2001, Section 2-110, is amended to read
13 as follows:

14 Section 2-110. The Director of the Oklahoma State Bureau of Narcotics and
15 Dangerous Drugs Control may employ attorneys, who shall be unclassified employees of
16 the state, or contract with attorneys, as needed. These attorneys may advise the
17 Director, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
18 Commission and Bureau personnel on all legal matters and shall appear for and
19 represent the Director, the Commission and Bureau personnel in all administrative
20 hearings and all litigation or other proceedings which may arise in the discharge of their
21 duties. At the request of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
22 Control Commission, such attorney shall assist the district attorney in prosecuting

1 charges of violators of the Uniform Controlled Dangerous Substances Act or any felony
2 relating to or arising from a violation of the Uniform Controlled Dangerous Substances
3 Act. Provided, if Attorneys for the Bureau who have been certified by the Council on Law
4 Enforcement Education and Training to carry a concealed weapon or have been issued a
5 concealed handgun license pursuant to the provisions of the Oklahoma Self-Defense Act
6 shall be allowed to carry weapons pursuant to paragraph 3 of subsection A of Section
7 1272 of Title 21 of the Oklahoma Statutes. These attorneys, pursuant to this provision,
8 shall not be considered eligible to participate in the Oklahoma Law Enforcement
9 Retirement System. If a conflict of interest would be created by such attorney
10 representing the Director, the Commission or Bureau personnel, additional counsel may
11 be hired upon approval of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
12 Control Commission. ~~Any classified employee who is serving in an attorney position~~
13 ~~which is subject to the Merit System of Personnel Administration on the effective date of~~
14 ~~this act shall have the option of retaining such classified status. An incumbent who~~
15 ~~chooses to remain in the classified service shall be subject to all provisions and conditions~~
16 ~~of the Merit System of Personnel Administration. An incumbent who chooses to change~~
17 ~~status from classified to unclassified shall so indicate in writing. All future appointees to~~
18 ~~such positions shall be in the unclassified service.~~

19 SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma
20 Statutes as Section 63 of Title 2-111, unless there is created a duplication in numbering,
21 reads as follows:

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

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

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

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

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

19 C. To better educate and foster relations as to the Bureau and its mission towards
20 drug reduction, the Bureau may expend funds not exceeding Ten Thousand Dollars
21 (\$10,000.00) each fiscal year for the purpose of distributing educational, demand-
22 reduction and commemorative materials bearing the seal of the Oklahoma State Bureau

1 of Narcotics and Dangerous Drugs Control to nonemployees. Donated items, federal
2 grant money and seizure funds shall not count toward this amount.

3 SECTION 9. AMENDATORY 63 O.S. 2001, Section 2-201, is amended to read
4 as follows:

5 Section 2-201. A. The ~~Commissioner~~ Director shall administer the provisions of
6 this act except as otherwise provided.

7 B. The Board of Pharmacy by rule may classify new products determined to have a
8 potential for abuse as controlled dangerous substances after notice and hearing; provided
9 that such rule shall be submitted to the next regular session of the Legislature, and such
10 rule shall remain in force and effect unless a concurrent resolution of disapproval is
11 passed. Hearings shall be conducted by the Board of Pharmacy or such officers, agents
12 or employees as the Board of Pharmacy may designate for the purpose. The Board of
13 Pharmacy shall give appropriate notice of the proposed classification and of the time and
14 place for a hearing. The rule so promulgated shall become effective on a date fixed by the
15 Board of Pharmacy. Such rule may be amended or repealed in the same manner as
16 provided for its adoption. Proceedings pursuant to this subsection shall be governed by
17 the Administrative Procedures Act. A new substance controlled pursuant to this
18 subsection shall be subject to the same regulatory provisions of this act applicable to the
19 Schedule of substances to which it is classified.

20 C. The ~~Commissioner~~ Director may recommend to the Legislature the addition,
21 deletion or rescheduling of a substance.

1 D. In considering whether to make a recommendation or issue an order under this
2 section, the ~~Commissioner~~ Director or the Board of Pharmacy, as the case may be, shall
3 consider the following:

- 4 1. Its actual or relative potential for abuse;
- 5 2. Scientific evidence of its pharmacological effect, if known;
- 6 3. State of current scientific knowledge regarding the substance;
- 7 4. Its history and current pattern of abuse;
- 8 5. The scope, duration, and significance of abuse;
- 9 6. What, if any, risk there is to the public health;
- 10 7. Its psychic or physiological dependence liability; and
- 11 8. Whether the substance is an immediate precursor or principal compound of a
12 substance already controlled under this article.

13 E. Substances which are precursors of a controlled precursor shall not be subject to
14 control solely because they are precursors of the controlled precursor.

15 F. In addition to the filing requirements of the Administrative Procedures Act,
16 copies of orders issued under this section shall, during the time the Legislature is not in
17 session, be filed with the ~~Chairman~~ Chair and Vice ~~Chairman~~ Chair of the State
18 Legislative Council's Judiciary Committee.

19 G. The Board of Pharmacy shall exclude any nonnarcotic substance from a schedule
20 if such substance may, under the Federal Food, Drug and Cosmetic Act and the law of
21 this state, be lawfully sold over the counter without a prescription.

1 SECTION 10. AMENDATORY 63 O.S. 2001, Section 2-301, as amended by
2 Section 3, Chapter 338, O.S.L. 2003 (63 O.S. Supp. 2007, Section 2-301), is amended to
3 read as follows:

4 Section 2-301. A. The ~~Commissioner~~ Director is authorized to promulgate rules
5 and regulations relating to the registration and control of the manufacture, distribution,
6 dispensing, prescribing, administering or use for scientific purposes of controlled
7 dangerous substances within this state. All proceedings before the ~~office of~~
8 ~~Commissioner~~ Director shall be governed by the Administrative Procedures Act.

9 B. The ~~Commissioner~~ Director shall promulgate rules relating to the training,
10 certification and registration of animal control officers for the purpose of authorizing
11 such individuals to purchase, possess and administer controlled dangerous substances
12 for animal control within this state and operating under the parameters of Sections 501
13 through 508 of Title 4 of the Oklahoma Statutes. In promulgating such rules, the
14 ~~Commissioner~~ Director shall cooperate with any federal, state or local entity with
15 jurisdiction over the euthanasia of animals.

16 SECTION 11. AMENDATORY 63 O.S. 2001, Section 2-306, is amended to read
17 as follows:

18 Section 2-306. On the conviction of any person of the violation of any provision of
19 this act, a certified copy of the judgment of conviction shall be sent by the clerk of the
20 court to the ~~Commissioner~~ Director and to the board or officer, if any, by whom the
21 convicted defendant has been licensed or registered to practice his or her profession or to
22 carry on his or her business.

1 SECTION 12. AMENDATORY 63 O.S. 2001, Section 2-307, is amended to read
2 as follows:

3 Section 2-307. Persons registered to manufacture, distribute, or dispense controlled
4 dangerous substances under this act shall keep records and maintain inventories in
5 conformance with the record-keeping and inventory requirements of federal law and with
6 the additional rules the ~~Commissioner~~ Director issues.

7 SECTION 13. AMENDATORY Section 2, Chapter 288, O.S.L. 2002, as
8 amended by Section 4, Chapter 133, O.S.L. 2003 (63 O.S. Supp. 2007, Section 2-333), is
9 amended to read as follows:

10 Section 2-333. A. It shall be unlawful for any person to knowingly sell, transfer,
11 distribute, or dispense any product containing ephedrine, pseudoephedrine or
12 phenylpropanolamine, or their salts, isomers or salts of isomers if the person knows that
13 the purchaser will use the product as a precursor to manufacture methamphetamine or
14 another controlled illegal substance or if the person sells, transfers, distributes or
15 dispenses the product with reckless disregard as to how the product will be used.

16 B. A violation of this section shall be a felony punishable by imprisonment in the
17 State Penitentiary for a term of not more than ten (10) years.

18 C. Any person who sells, transfers, distributes, dispenses, or in any manner
19 furnishes any product containing pseudoephedrine or phenylpropanolamine, or their
20 salts, isomers, or salts of isomers in a negligent manner, with knowledge or reason to
21 know that the product will be used as a precursor to manufacture methamphetamine or
22 any other illegal controlled substance, or with reckless disregard as to how the product

1 will be used, shall be liable for all damages, whether directly or indirectly caused by the
2 sale, transfer, distribution, dispensation, or furnishing.

3 1. Such damages may include, but are not limited to, any and all costs of detecting,
4 investigating, and cleaning up or remediating clandestine or other unlawfully operated
5 or maintained laboratories where controlled dangerous substances are manufactured,
6 any and all costs of prosecuting criminal cases arising from such manufacture, and any
7 and all consequential and punitive damages otherwise allowed by law.

8 2. A civil action to recover damages against persons, corporations or other entities
9 violating this subsection may be brought only by the Attorney General, the Director of
10 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or by any district
11 attorney in whose jurisdiction such person may be shown to have committed such
12 violation. Any funds recovered from such an action shall be used for payment or
13 reimbursement of costs arising from investigating or prosecuting criminal or civil cases
14 involving the manufacture of controlled dangerous substances, for drug education
15 programs, or for payment or reimbursement of remediating contaminated
16 methamphetamine laboratory sites.

17 D. Violation of subsection A or C of this section shall be considered to affect at the
18 same time an entire community or neighborhood, or any considerable number of persons,
19 although the extent of the annoyance or damage inflicted upon the individuals may be
20 unequal and is subject to the provisions of Section 2 of Title 50 of the Oklahoma Statutes
21 and Section 1397 of Title 12 of the Oklahoma Statutes.

1 SECTION 14. AMENDATORY 63 O.S. 2001, Section 2-511, is amended to read
2 as follows:

3 Section 2-511. Judicial review of final determinations, findings, and conclusions of
4 the ~~Commissioner~~ Director under this act shall be in the manner provided by the
5 Administrative Procedures Act. A revocation or suspension of a registration based on the
6 revocation or suspension of a professional or occupational license shall be final and
7 conclusive where judicial review is available with respect to the revocation or suspension
8 of the professional or occupational license.

9 SECTION 15. AMENDATORY 63 O.S. 2001, Section 683.6, as amended by
10 Section 7, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2007, Section 683.6), is amended to
11 read as follows:

12 Section 683.6 A. There is hereby created an Emergency Management Advisory
13 Council. The members of the Council shall be composed of the Governor, who shall serve
14 as chair of the Council, and the following department heads:

- 15 1. The Director of the Oklahoma Department of Emergency Management;
- 16 2. The Commissioner of Public Safety;
- 17 3. The Adjutant General;
- 18 4. The Commissioner of Health;
- 19 5. The Commissioner of the State Department of Agriculture, Food, and Forestry;
- 20 6. The Director of the Department of Human Services;
- 21 7. The Director of the Department of Transportation;
- 22 8. The Director of the Oklahoma Water Resources Board;

- 1 9. The State Fire Marshal;
- 2 10. The Department of Environmental Quality; ~~and~~
- 3 11. The Oklahoma Sheriff's Association; and
- 4 12. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
- 5 Control,

6 who shall serve without additional compensation.

7 B. The Council shall advise the Governor and the Director on all matters

8 pertaining to emergency management.

9 C. 1. There is hereby created the State Hazard Mitigation Team, composed of the

10 administrative heads of the following agencies or their designees:

- 11 a. Oklahoma Department of Emergency Management, who shall serve as
- 12 the Team Coordinator,
- 13 b. Oklahoma Water Resources Board,
- 14 c. Oklahoma Climatological Survey,
- 15 d. Oklahoma Conservation Commission,
- 16 e. Oklahoma Corporation Commission,
- 17 f. Oklahoma Department of Commerce,
- 18 g. Oklahoma Department of Environmental Quality,
- 19 h. Oklahoma Department of Human Services,
- 20 i. Oklahoma Department of Health,
- 21 j. Oklahoma Department of Transportation,

- 1 k. Oklahoma Department of Agriculture, Food, and Forestry or Secretary
- 2 of the Oklahoma Department of Agriculture, Food, and Forestry,
- 3 l. Oklahoma Department of Wildlife Conservation,
- 4 m. Oklahoma Historical Society,
- 5 n. Oklahoma Insurance Commission,
- 6 o. Association of County Commissioners of Oklahoma,
- 7 p. Oklahoma Municipal League,
- 8 q. State Fire Marshal, and
- 9 r. Oklahoma Department of Labor.

10 2. Depending on the circumstances, the Team Coordinator may request
11 participation of the heads of any other state agencies as deemed appropriate.

12 3. The Team Coordinator shall also request that a representative of the United
13 States Army Corps of Engineers be appointed by the administrative head of the Tulsa
14 District to participate on the Team.

15 4. The Team Coordinator shall also request a representative of the U.S.
16 Department of Housing and Urban Development be appointed by the administrative
17 head of the Oklahoma City office to participate on the team.

18 5. The State Hazard Mitigation Team will meet as determined by the Team
19 Coordinator to review and recommend updates to the State Comprehensive All-hazard
20 Mitigation Plan, and shall have those additional responsibilities as provided by the Team
21 Coordinator, including, but not limited to, the review and recommendation for loan and
22 grant application under the Oklahoma Flood Hazard Mitigation Program.

1 SECTION 16. This act shall become effective November 1, 2008.
2 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
3 dated 03-05-08 - DO PASS, As Amended and Coauthored.