

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 1571

By: Lamons

4
5
6 AS INTRODUCED

7 An Act relating to the Department of Public Safety;
8 abolishing the Oklahoma State Bureau of Narcotics and
9 Dangerous Drugs Control; providing for interpretation
10 of certain statutory references; transferring the
11 duties of enforcement and administration of the
12 Uniform Controlled Dangerous Substances Act to the
13 Department of Public Safety; transferring certain
14 personnel, funds, records, encumbrances, equipment,
15 and other items to the Department of Public Safety;
16 providing requirements pertaining to transfer of
17 employees; providing for transition coordinators and
18 a transition team; providing duties of the transition
19 team; amending 63 O.S. 2001, Sections 2-101, as last
20 amended by Section 1, Chapter 251, O.S.L. 2006, 2-
21 103, as last amended by Section 7, Chapter 83, 2nd
22 Extraordinary Session, O.S.L. 2006, 2-103.1, 2-105,
23 2-106, 2-106.1, 2-107, 2-109, 2-110, 2-201, 2-204, as
24 amended by Section 1, Chapter 283, O.S.L. 2005, 2-
210, as amended by Section 1, Chapter 52, O.S.L.
2002, 2-212, as last amended by Section 2, Chapter
128, O.S.L. 2005, 2-301, as amended by Section 3,
Chapter 338, O.S.L. 2003, 2-302, as last amended by
Section 2, Chapter 40, O.S.L. 2005, 2-303, as last
amended by Section 61, Chapter 5, O.S.L. 2004, 2-304,
2-305, 2-309, 2-309B, as amended by Section 2,
Chapter 300, O.S.L. 2004, 2-309C and 2-309D, as last
amended by Sections 3 and 4, Chapter 128, O.S.L.
2005, 2-309E, 2-309F, 2-309G and 2-309H, as amended
by Sections 5, 6, 7 and 8, Chapter 300, O.S.L. 2004,
2-315, 2-322, 2-323, 2-324, 2-325, 2-326, 2-329, 2-
330 and 2-331, Section 1, Chapter 288, O.S.L. 2002,
as last amended by Section 4, Chapter 59, O.S.L.
2004, Section 2, Chapter 288, O.S.L. 2002, as amended
by Section 4, Chapter 133, O.S.L. 2003, 2-503, as
amended by Section 2, Chapter 537, O.S.L. 2004, 2-

1 505, 2-506, as last amended by Section 3, Chapter
2 537, O.S.L. 2004, 2-508, as last amended by Section
3 16, Chapter 168, O.S.L. 2004 and 2-509 (63 O.S. Supp.
4 2006, Sections 2-101, 2-103, 2-204, 2-210, 2-212, 2-
5 301, 2-302, 2-303, 2-309B, 2-309C, 2-309D, 2-309E, 2-
6 309F, 2-309G, 2-309H, 2-332, 2-333, 2-503, 2-506 and
7 2-508), which relate to the Uniform Controlled
8 Dangerous Substances Act; modifying the Uniform
9 Controlled Dangerous Substances Act to reflect the
10 transfer of administration and enforcement from the
11 Oklahoma Bureau of Narcotics and Dangerous Drugs
12 Control to the Department of Public Safety; providing
13 for continuation of promulgated rules, regulations
14 and forms; amending 74 O.S. 2001, Section 18c, as
15 last amended by Section 8, Chapter 405, O.S.L. 2005
16 (74 O.S. Supp. 2006, Section 18c), which relates to
17 employment of attorneys by state agencies;
18 eliminating references to abolished agencies;
19 abolishing the Oklahoma State Bureau of
20 Investigation; providing for interpretation of
21 certain statutory references; transferring certain
22 duties of enforcement to the Department of Public
23 Safety; transferring certain personnel, funds,
24 records, encumbrances, equipment, and other items to
the Department of Public Safety; providing
requirements pertaining to transfer of employees;
providing for transition coordinators and a
transition team; providing duties of the transition
team; amending 74 O.S. 2001, Sections 150.2, as last
amended by Section 1, Chapter 303, O.S.L. 2006,
150.4, 150.5, as last amended by Section 17, Chapter
205, O.S.L. 2006, 150.7, as amended by Section 1,
Chapter 42, O.S.L. 2002, 150.7a, as amended by
Section 2, Chapter 303, O.S.L. 2006, 150.7d, 150.8a,
as last amended by Section 2, Chapter 223, O.S.L.
2005, 150.9, as amended by Section 11, Chapter 204,
O.S.L. 2003, 150.10, as amended by Section 1, Chapter
106, O.S.L. 2005, 150.11, as amended by Section 2,
Chapter 42, O.S.L. 2002, 150.12, as last amended by
Section 80, Chapter 16, O.S.L. 2006, 150.12A,
150.12B, 150.13, 150.16, 150.17, 150.18, 150.19a, as
amended by Section 3, Chapter 276, O.S.L. 2004,
150.21a, 150.21b, as amended by Section 10, Chapter
130, O.S.L. 2004, 150.22, 150.23, as last amended by
Section 3, Chapter 169, O.S.L. 2005, 150.24, 150.25,
as amended by Section 4, Chapter 276, O.S.L. 2004,
150.26, 150.27, as last amended by Section 3, Chapter

1 303, O.S.L. 2006, 150.27a, as last amended by Section
2 5, Chapter 441, O.S.L. 2005, 150.28, 150.29, 150.30,
3 150.31, 150.32, 150.34, 150.35, as amended by Section
4 5, Chapter 276, O.S.L. 2004, Section 2, Chapter 326,
5 O.S.L. 2006, Section 3, Chapter 183, O.S.L. 2006,
6 152.2, 152.3, 152.4, 152.5, 152.6 and Section 1,
7 Chapter 339, O.S.L. 2002 (74 O.S. Supp. 2006,
8 Sections 150.2, 150.5, 150.7, 150.7a, 150.8a, 150.9,
9 150.10, 150.11, 150.12, 150.19a, 150.21b, 150.23,
10 150.25, 150.27, 150.27a, 150.35, 150.38, 151.1 and
11 152.10), which relate to the Oklahoma State Bureau of
12 Investigation; modifying laws to reflect transfer of
13 administration and enforcement from the Oklahoma
14 State Bureau of Investigation to the Department of
15 Public Safety; repealing 63 O.S. 2001, Section 2-102,
16 Section 8, Chapter 83, 2nd Extraordinary Session,
17 O.S.L. 2006 and Section 2-104.1, as last amended by
18 Section 4, Chapter 229, O.S.L. 2003 (63 O.S. Supp.
19 2006, Sections 2-103a and 2-104.1), which relate to
20 the Director of the Oklahoma State Bureau of
21 Narcotics and Dangerous Drugs Control and the
22 Oklahoma State Bureau of Narcotics and Dangerous
23 Drugs Control Commission; repealing 74 O.S. 2001,
24 Sections 150.1, 150.3, as last amended by Section 7,
Chapter 229, O.S.L. 2003, 150.6, as amended by
Section 14, Chapter 199, O.S.L. 2003, 150.6a, as last
amended by Section 10, Chapter 83, 2nd Extraordinary
Session, O.S.L. 2006, 150.8, as amended by Section 2,
Chapter 347, O.S.L. 2002 and 150.21, as amended by
Section 3, Chapter 42, O.S.L. 2002 (74 O.S. Supp.
2006, Sections 150.3, 150.6, 150.6a, 150.8 and
150.21), which relate to the Oklahoma State Bureau of
Investigation, the Oklahoma State Bureau of
Investigation Commission, the Director and other
employees of the Oklahoma State Bureau of
Investigation; providing for codification; providing
for noncodification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-102b of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
5 Control is hereby abolished effective July 1, 2009. Any reference
6 in the Oklahoma Statutes to the Oklahoma State Bureau of Narcotics
7 and Dangerous Drugs Control shall be deemed to be a reference to the
8 Oklahoma Department of Public Safety. Any reference in the Oklahoma
9 Statutes to the Director of the Oklahoma State Bureau of Narcotics
10 and Dangerous Drugs Control shall be deemed to be a reference to the
11 Oklahoma Commissioner of Public Safety.

12 B. All assets, funds, liabilities, allotments, purchase orders,
13 outstanding financial obligations, encumbrances, records, aircraft,
14 vehicles, equipment, and other property of the Oklahoma State Bureau
15 of Narcotics and Dangerous Drugs Control is hereby transferred to
16 the Department of Public Safety.

17 C. Personnel employed by the Oklahoma State Bureau of Narcotics
18 and Dangerous Drugs Control on July 1, 2009, shall be transferred to
19 the Department of Public Safety pursuant to a transition plan
20 implemented by the Commissioner of Public Safety as required by
21 Section 2 of this act.

22 D. The classified and unclassified employees who are
23 transferred pursuant to this section shall be subject to the
24 following provisions:

1 1. Classified employees shall remain subject to the provisions
2 of the Merit System of Personnel Administration, as provided in the
3 Oklahoma Personnel Act;

4 2. Unclassified employees shall remain in the unclassified
5 service and shall serve at the pleasure of the Commissioner of
6 Public Safety;

7 3. All employees who are transferred to the Department of
8 Public Safety shall retain leave, sick and annual time earned and
9 any retirement and longevity benefits which have accrued during
10 their employment with the state. The salaries of employees who are
11 transferred shall not be reduced as a direct and immediate result of
12 the transfer;

13 4. If the Department of Public Safety should implement a
14 reduction in force, all employees transferred from the Oklahoma
15 State Bureau of Narcotics and Dangerous Drugs Control shall be
16 credited for the time they were employed by the Oklahoma State
17 Bureau of Narcotics and Dangerous Drugs Control; and

18 5. The transfer of personnel shall be coordinated with the
19 Office of Personnel Management.

20 SECTION 2. NEW LAW A new section of law not to be
21 codified in the Oklahoma Statutes reads as follows:

22 A. Effective January 1, 2008, the Commissioner of Public Safety
23 and the Director of the Oklahoma State Bureau of Narcotics and
24 Dangerous Drugs Control shall serve as transition coordinators and

1 shall establish a transition team to coordinate the orderly transfer
2 of duties, personnel, property, funds, and encumbrances from the
3 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to
4 the Department of Public Safety. The Commissioner and the Director
5 may assign personnel to the transition team from their respective
6 agencies as deemed necessary.

7 B. The transition team shall:

8 1. In conjunction with the Oklahoma Department of Central
9 Services, the Oklahoma Office of State Finance and the Oklahoma
10 Office of Personnel Management, oversee and administer the orderly
11 transfer of responsibilities, liabilities, property, records,
12 personnel and any outstanding financial obligations or encumbrances
13 to the Department of Public Safety from the Oklahoma State Bureau of
14 Narcotics and Dangerous Drugs Control;

15 2. Review functions currently assigned to or managed by the
16 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

17 3. Devise a proposal for an organizational framework within the
18 Department of Public Safety for drug law enforcement;

19 4. Establish a plan for the transfer of employees from the
20 Oklahoma Bureau of Narcotics and Dangerous Drugs Control to the
21 Department of Public Safety. The plan shall include a list of
22 positions to be transferred. In no event shall the number of full-
23 time-equivalent employees for the Oklahoma State Bureau of Narcotics
24 and Dangerous Drugs Control transferring or electing to remain with

1 the Department of Public Safety exceed one hundred and two full-
2 time-equivalent positions; and

3 5. Take such other action as may be reasonably necessary and
4 appropriate to effectuate the orderly transition of functions as
5 provided by this act.

6 SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-101, as
7 last amended by Section 1, Chapter 251, O.S.L. 2006 (63 O.S. Supp.
8 2006, Section 2-101), is amended to read as follows:

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

11 1. "Administer" means the direct application of a controlled
12 dangerous substance, whether by injection, inhalation, ingestion or
13 any other means, to the body of a patient, animal or research
14 subject by:

15 a. a practitioner (or, in the presence of the
16 practitioner, by the authorized agent of the
17 practitioner), or

18 b. the patient or research subject at the direction and
19 in the presence of the practitioner;

20 2. "Agent" means a peace officer appointed by and who acts in
21 behalf of the ~~Director of the Oklahoma State Bureau of Narcotics and~~
22 ~~Dangerous Drugs Control~~ Commissioner of Public Safety or an
23 authorized person who acts on behalf of or at the direction of a
24 person who manufactures, distributes, dispenses, prescribes,

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

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

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

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

13 ~~6. 4. "Commissioner" or "Director" means the Director of the~~
14 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~
15 Commissioner of Public Safety;

16 ~~7. 5. "Control" means to add, remove or change the placement of~~
17 ~~a drug, substance or immediate precursor under the Uniform~~
18 ~~Controlled Dangerous Substances Act;~~

19 ~~8. 6. "Controlled dangerous substance" means a drug, substance~~
20 ~~or immediate precursor in Schedules I through V of the Uniform~~
21 ~~Controlled Dangerous Substances Act, Section 2-101 et seq. of this~~
22 ~~title;~~

23 ~~9. 7. "Counterfeit substance" means a controlled substance~~
24 ~~which, or the container or labeling of which without authorization,~~

1 bears the trademark, trade name or other identifying marks, imprint,
2 number or device or any likeness thereof of a manufacturer,
3 distributor or dispenser other than the person who in fact
4 manufactured, distributed or dispensed the substance;

5 ~~10.~~ 8. "Deliver" or "delivery" means the actual, constructive
6 or attempted transfer from one person to another of a controlled
7 dangerous substance or drug paraphernalia, whether or not there is
8 an agency relationship;

9 ~~11.~~ 9. "Department" means the Department of Public Safety;

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

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

17 ~~12.~~ 11. "Distribute" means to deliver other than by
18 administering or dispensing a controlled dangerous substance;

19 ~~13.~~ 12. "Distributor" means a commercial entity engaged in the
20 distribution or reverse distribution of narcotics and dangerous
21 drugs and who complies with all regulations promulgated by the
22 federal Drug Enforcement Administration and the ~~Oklahoma State~~
23 ~~Bureau of Narcotics and Dangerous Drugs Control~~ Department of Public
24 Safety;

1 ~~14.~~ 13. "Drug" means articles:

- 2 a. recognized in the official United States
3 Pharmacopoeia, official Homeopathic Pharmacopoeia of
4 the United States, or official National Formulary, or
5 any supplement to any of them,
6 b. intended for use in the diagnosis, cure, mitigation,
7 treatment or prevention of disease in man or other
8 animals,
9 c. other than food, intended to affect the structure or
10 any function of the body of man or other animals, and
11 d. intended for use as a component of any article
12 specified in this paragraph;

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

15 ~~15.~~ 14. "Drug-dependent person" means a person who is using a
16 controlled dangerous substance and who is in a state of psychic or
17 physical dependence, or both, arising from administration of that
18 controlled dangerous substance on a continuous basis. Drug
19 dependence is characterized by behavioral and other responses which
20 include a strong compulsion to take the substance on a continuous
21 basis in order to experience its psychic effects, or to avoid the
22 discomfort of its absence;

23 ~~16.~~ 15. "Home care agency" means any sole proprietorship,
24 partnership, association, corporation, or other organization which

1 administers, offers, or provides home care services, for a fee or
2 pursuant to a contract for such services, to clients in their place
3 of residence;

4 ~~17.~~ 16. "Home care services" means skilled or personal care
5 services provided to clients in their place of residence for a fee;

6 ~~18.~~ 17. "Hospice" means a centrally administered, nonprofit or
7 profit, medically directed, nurse-coordinated program which provides
8 a continuum of home and inpatient care for the terminally ill
9 patient and the patient's family. Such term shall also include a
10 centrally administered, nonprofit or profit, medically directed,
11 nurse-coordinated program if such program is licensed pursuant to
12 the provisions of this act. A hospice program offers palliative and
13 supportive care to meet the special needs arising out of the
14 physical, emotional and spiritual stresses which are experienced
15 during the final stages of illness and during dying and bereavement.
16 This care is available twenty-four (24) hours a day, seven (7) days
17 a week, and is provided on the basis of need, regardless of ability
18 to pay. "Class A" Hospice refers to Medicare certified hospices.
19 "Class B" refers to all other providers of hospice services;

20 ~~19.~~ 18. "Imitation controlled substance" means a substance that
21 is not a controlled dangerous substance, which by dosage unit
22 appearance, color, shape, size, markings or by representations made,
23 would lead a reasonable person to believe that the substance is a
24 controlled dangerous substance. In the event the appearance of the

1 dosage unit is not reasonably sufficient to establish that the
2 substance is an "imitation controlled substance", the court or
3 authority concerned should consider, in addition to all other
4 factors, the following factors as related to "representations made"
5 in determining whether the substance is an "imitation controlled
6 substance":

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

23 ~~20.~~ 19. "Immediate precursor" means a substance which the
24 ~~Director~~ Commissioner has found to be and by regulation designates

1 as being the principal compound commonly used or produced primarily
2 for use, and which is an immediate chemical intermediary used, or
3 likely to be used, in the manufacture of a controlled dangerous
4 substance, the control of which is necessary to prevent, curtail or
5 limit such manufacture;

6 ~~21.~~ 20. "Laboratory" means a laboratory approved by the
7 ~~Director~~ Commissioner as proper to be entrusted with the custody of
8 controlled dangerous substances and the use of controlled dangerous
9 substances for scientific and medical purposes and for purposes of
10 instruction;

11 ~~22.~~ 21. "Manufacture" means the production, preparation,
12 propagation, compounding or processing of a controlled dangerous
13 substance, either directly or indirectly by extraction from
14 substances of natural or synthetic origin, or independently by means
15 of chemical synthesis or by a combination of extraction and chemical
16 synthesis. "Manufacturer" includes any person who packages,
17 repackages or labels any container of any controlled dangerous
18 substance, except practitioners who dispense or compound
19 prescription orders for delivery to the ultimate consumer;

20 ~~23.~~ 22. "Marihuana" means all parts of the plant Cannabis
21 sativa L., whether growing or not; the seeds thereof; the resin
22 extracted from any part of such plant; and every compound,
23 manufacture, salt, derivative, mixture or preparation of such plant,
24 its seeds or resin, but shall not include the mature stalks of such

1 plant, fiber produced from such stalks, oil or cake made from the
2 seeds of such plant, any other compound, manufacture, salt,
3 derivative, mixture or preparation of such mature stalks (except the
4 resin extracted therefrom), fiber, oil or cake, or the sterilized
5 seed of such plant which is incapable of germination;

6 ~~24.~~ 23. "Medical purpose" means an intention to utilize a
7 controlled dangerous substance for physical or mental treatment, for
8 diagnosis, or for the prevention of a disease condition not in
9 violation of any state or federal law and not for the purpose of
10 satisfying physiological or psychological dependence or other abuse;

11 ~~25.~~ 24. "Mid-level practitioner" means an advanced practice
12 nurse as defined and within parameters specified in Section 567.3a
13 of Title 59 of the Oklahoma Statutes, or a certified animal
14 euthanasia technician as defined in Section 698.2 of Title 59 of the
15 Oklahoma Statutes, or an animal control officer registered by the
16 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~
17 Department of Public Safety under subsection B of Section 2-301 of
18 this title within the parameters of such officer's duty under
19 Sections 501 through 508 of Title 4 of the Oklahoma Statutes;

20 ~~26.~~ 25. "Narcotic drug" means any of the following, whether
21 produced directly or indirectly by extraction from substances of
22 vegetable origin, or independently by means of chemical synthesis,
23 or by a combination of extraction and chemical synthesis:

24 a. opium, coca leaves and opiates,

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

15 ~~27.~~ 26. "Opiate" means any substance having an addiction-
16 forming or addiction-sustaining liability similar to morphine or
17 being capable of conversion into a drug having such addiction-
18 forming or addiction-sustaining liability. It does not include,
19 unless specifically designated as controlled under the Uniform
20 Controlled Dangerous Substances Act, the dextrorotatory isomer of 3-
21 methoxy-n-methyl-morphinan and its salts (dextromethorphan). It
22 does include its racemic and levorotatory forms;

23 ~~28.~~ 27. "Opium poppy" means the plant of the species *Papaver*
24 *somniferum* L., except the seeds thereof;

1 ~~29.~~ 28. "Peace officer" means a police officer, sheriff, deputy
2 sheriff, district attorney's investigator, investigator from the
3 Office of the Attorney General, or any other person elected or
4 appointed by law to enforce any of the criminal laws of this state
5 or of the United States;

6 ~~30.~~ 29. "Person" means an individual, corporation, government
7 or governmental subdivision or agency, business trust, estate,
8 trust, partnership or association, or any other legal entity;

9 ~~31.~~ 30. "Poppy straw" means all parts, except the seeds, of the
10 opium poppy, after mowing;

11 ~~32.~~ 31. "Practitioner" means:

- 12 a. (1) a medical doctor or osteopathic physician,
13 (2) a dentist,
14 (3) a podiatrist,
15 (4) an optometrist,
16 (5) a veterinarian,
17 (6) a physician assistant under the supervision of a
18 licensed medical doctor or osteopathic physician,
19 (7) a scientific investigator, or
20 (8) any other person,
21 licensed, registered or otherwise permitted to
22 prescribe, distribute, dispense, conduct research with
23 respect to, use for scientific purposes or administer
24

1 a controlled dangerous substance in the course of
2 professional practice or research in this state, or

3 b. a pharmacy, hospital, laboratory or other institution
4 licensed, registered or otherwise permitted to
5 distribute, dispense, conduct research with respect
6 to, use for scientific purposes or administer a
7 controlled dangerous substance in the course of
8 professional practice or research in this state;

9 ~~33.~~ 32. "Production" includes the manufacture, planting,
10 cultivation, growing or harvesting of a controlled dangerous
11 substance;

12 ~~34.~~ 33. "State" means the State of Oklahoma or any other state
13 of the United States;

14 ~~35.~~ 34. "Ultimate user" means a person who lawfully possesses a
15 controlled dangerous substance for the person's own use or for the
16 use of a member of the person's household or for administration to
17 an animal owned by the person or by a member of the person's
18 household;

19 ~~36.~~ 35. "Drug paraphernalia" means all equipment, products and
20 materials of any kind which are used, intended for use, or fashioned
21 specifically for use in planting, propagating, cultivating, growing,
22 harvesting, manufacturing, compounding, converting, producing,
23 processing, preparing, testing, analyzing, packaging, repackaging,
24 storing, containing, concealing, injecting, ingesting, inhaling or

1 otherwise introducing into the human body, a controlled dangerous
2 substance in violation of the Uniform Controlled Dangerous
3 Substances Act including, but not limited to:

- 4 a. kits used, intended for use, or fashioned specifically
5 for use in planting, propagating, cultivating, growing
6 or harvesting of any species of plant which is a
7 controlled dangerous substance or from which a
8 controlled dangerous substance can be derived,
- 9 b. kits used, intended for use, or fashioned specifically
10 for use in manufacturing, compounding, converting,
11 producing, processing or preparing controlled
12 dangerous substances,
- 13 c. isomerization devices used, intended for use, or
14 fashioned specifically for use in increasing the
15 potency of any species of plant which is a controlled
16 dangerous substance,
- 17 d. testing equipment used, intended for use, or fashioned
18 specifically for use in identifying, or in analyzing
19 the strength, effectiveness or purity of controlled
20 dangerous substances,
- 21 e. scales and balances used, intended for use, or
22 fashioned specifically for use in weighing or
23 measuring controlled dangerous substances,

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

- 1 1. objects used, intended for use, or fashioned
2 specifically for use in ingesting, inhaling or
3 otherwise introducing marihuana, cocaine, hashish or
4 hashish oil into the human body, such as:
- 5 (1) metal, wooden, acrylic, glass, stone, plastic or
 - 6 ceramic pipes with or without screens, permanent
 - 7 screens, hashish heads or punctured metal bowls,
 - 8 (2) water pipes,
 - 9 (3) carburetion tubes and devices,
 - 10 (4) smoking and carburetion masks,
 - 11 (5) roach clips, meaning objects used to hold burning
 - 12 material, such as a marihuana cigarette, that has
 - 13 become too small or too short to be held in the
 - 14 hand,
 - 15 (6) miniature cocaine spoons and cocaine vials,
 - 16 (7) chamber pipes,
 - 17 (8) carburetor pipes,
 - 18 (9) electric pipes,
 - 19 (10) air-driven pipes,
 - 20 (11) chillums,
 - 21 (12) bongs, or
 - 22 (13) ice pipes or chillers,
 - 23 m. all hidden or novelty pipes, and
 - 24

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

6 provided, however, the term "drug paraphernalia" shall not include
7 separation gins intended for use in preparing tea or spice, clamps
8 used for constructing electrical equipment, water pipes designed for
9 ornamentation in which no detectable amount of an illegal substance
10 is found or pipes designed and used solely for smoking tobacco,
11 traditional pipes of an American Indian tribal religious ceremony,
12 or antique pipes that are thirty (30) years of age or older;

13 ~~37.~~ 36. "Synthetic controlled substance" means a substance,
14 whether synthetic or naturally occurring, that is not a controlled
15 dangerous substance, but which produces a like or similar
16 physiological or psychological effect on the human central nervous
17 system that currently has no accepted medical use in treatment in
18 the United States and has a potential for abuse. The court or
19 authority concerned with establishing that the substance is a
20 synthetic controlled substance should consider, in addition to all
21 other factors, the following factors as related to "representations
22 made" in determining whether the substance is a synthetic controlled
23 substance:
24

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

Prima facie evidence that a substance containing salvia divinorum has been enhanced, concentrated or chemically or physically altered shall give rise to a rebuttable presumption that the substance is a synthetic controlled substance;

~~38.~~ 37. "Tetrahydrocannabinols" means all substances that have been chemically synthesized to emulate the tetrahydrocannabinols of marihuana;

~~39.~~ 38. "Isomer" means the optical isomer, except as used in subsection C of Section 2-204 of this title and paragraph 4 of subsection A of Section 2-206 of this title. As used in subsection C of Section 2-204 of this title, "isomer" means the optical, positional or geometric isomer. As used in paragraph 4 of subsection A of Section 2-206 of this title, the term "isomer" means the optical or geometric isomer;

1 ~~40.~~ 39. "Hazardous materials" means materials, whether solid,
2 liquid or gas, which are toxic to human, animal, aquatic or plant
3 life, and the disposal of which materials is controlled by state or
4 federal guidelines; and

5 ~~41.~~ 40. "Anhydrous ammonia" means any substance that exhibits
6 cryogenic evaporative behavior and tests positive for ammonia.

7 SECTION 4. AMENDATORY 63 O.S. 2001, Section 2-103, as
8 last amended by Section 7, Chapter 83, 2nd Extraordinary Session,
9 O.S.L. 2006 (63 O.S. Supp. 2006, Section 2-103), is amended to read
10 as follows:

11 A. ~~The Director shall be appointed by the Oklahoma State Bureau~~
12 ~~of Narcotics and Dangerous Drugs Control Commission. The Director~~
13 ~~of Narcotics and Dangerous Drugs Control on January 1, 1984, shall~~
14 ~~be initially appointed as Director. The succeeding Director shall,~~
15 ~~at the time of the appointment, have a Bachelor's Degree from an~~
16 ~~accredited college or university and at least five (5) years'~~
17 ~~experience in drug law enforcement. The Director may appoint~~
18 ~~necessary assistants, agents, and other personnel to perform the~~
19 ~~work of the office and may prescribe their titles and duties and fix~~
20 ~~their compensation, other than the salaries established in~~
21 ~~subsection A of Section 8 of this act, pursuant to Merit System~~
22 ~~rules. The Director may appoint an employee to the position of~~
23 ~~Public Information/Education Officer. Said position shall be~~
24 ~~unclassified and exempt from the rules and procedures of the Office~~

1 ~~of Personnel Management, except leave regulations. The office of~~
2 ~~the Director shall be located at a suitable place in Oklahoma City,~~
3 ~~Oklahoma.~~

4 ~~B.~~ 1. Agents appointed by the ~~Director~~ Commissioner of Public
5 Safety shall have the powers of peace officers generally; provided,
6 the ~~Director~~ Commissioner may appoint special agents to meet
7 specific investigatory need, who do not meet the age and educational
8 requirements as specified in this section.

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

12 3. Each entering agent shall be required to serve one (1) year
13 in a probationary status as a prerequisite to being placed on
14 permanent status.

15 ~~C.~~ B. Agents appointed pursuant to the provisions of this
16 section shall have the responsibility of investigating alleged
17 violations and shall have the authority to arrest those suspected of
18 having violated the provisions of the Uniform Controlled Dangerous
19 Substances Act.

20 ~~D.~~ C. A commissioned employee of the ~~Oklahoma State Bureau of~~
21 ~~Narcotics and Dangerous Drugs Control~~ Department of Public Safety,
22 appointed pursuant to the provisions of the Uniform Controlled
23 Dangerous Substances Act, shall be entitled to receive upon
24 retirement by reason of length of service, the continued custody and

1 possession of the sidearm and badge carried by such employee
2 immediately prior to retirement.

3 ~~E.~~ D. A commissioned employee of the ~~Bureau~~ Department,
4 employed pursuant to the provisions of the Uniform Controlled
5 Dangerous Substances Act, may be entitled to receive, upon
6 retirement by reason of disability, the continued custody and
7 possession of the sidearm and badge carried by such employee
8 immediately prior to retirement upon written approval of the
9 ~~Director~~ Commissioner.

10 ~~F.~~ E. Custody and possession of the sidearm and badge of a
11 commissioned employee killed in the line of duty may be awarded by
12 the ~~Director~~ Commissioner to the spouse or next of kin of the
13 deceased employee.

14 ~~G.~~ F. Custody and possession of the sidearm and badge of a
15 commissioned employee who dies while employed at the ~~Oklahoma State~~
16 ~~Bureau of Narcotics and Dangerous Drugs Control~~ Department of Public
17 Safety, pursuant to the provisions of the Uniform Controlled
18 Dangerous Substances Act, may be awarded by the ~~Director~~
19 Commissioner to the spouse or next of kin of the deceased employee.

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

1 SECTION 5. AMENDATORY 63 O.S. 2001, Section 2-103.1, is
2 amended to read as follows:

3 Section 2-103.1 A. In any investigation relating to the
4 functions of the ~~Oklahoma State Bureau of Narcotics and Dangerous~~
5 ~~Drugs Control~~ Department of Public Safety pursuant to the provisions
6 of the Uniform Controlled Dangerous Substances Act with respect to
7 controlled substances, the ~~Director of the Oklahoma State Bureau of~~
8 ~~Narcotics and Dangerous Drugs Control~~ Commissioner of Public Safety,
9 if recommended and approved by a chief agent of the ~~Bureau~~
10 Department and the legal counsel of the ~~Bureau~~ Department, may
11 subpoena witnesses, compel the attendance and testimony of
12 witnesses, and require the production of any records, including
13 books, papers, documents, and other tangible things which constitute
14 or contain evidence, which the ~~Director~~ Commissioner or agent finds
15 relevant or material to the investigation. The attendance of
16 witnesses and the production of records may be required from any
17 place in the state to a designated location in the county seat of
18 the county of which the subpoenaed person is an inhabitant or in
19 which the subpoenaed person carries on business or may be found.
20 Witnesses summoned pursuant to this section shall be paid the same
21 fees and mileage that are paid witnesses in the courts of this
22 state.

23 B. The witness shall have the option of complying with said
24 subpoena by:

1 1. Appearing and/or producing documents, as requested; or

2 2. Notifying the ~~Bureau~~ Department, in writing, of refusal to
3 appear or produce documents, within ten (10) days of the date of
4 service.

5 The subpoena form shall clearly set forth the optional means of
6 compliance including instructions for sending written notice of
7 refusal.

8 C. A subpoena issued pursuant to this section may be served by
9 any person designated in the subpoena to serve it. Service upon a
10 natural person may be made by personal delivery of the subpoena to
11 him. Service may be made upon a domestic or foreign corporation or
12 upon a partnership or other unincorporated association which is
13 subject to suit under a common name, by delivering the subpoena to
14 an officer, to a managing or general agent, or to any other agent
15 authorized by appointment or by law to receive service of process.
16 The affidavit of the person serving the subpoena entered on a true
17 copy thereof by the person serving it shall be proof of service.

18 D. In the case of contumacy by or refusal to obey a subpoena
19 issued to any person, the ~~Director~~ Commissioner may invoke the aid
20 of any district court of the state within the jurisdiction of which
21 the investigation is carried on or of which the subpoenaed person is
22 an inhabitant, or in which ~~he~~ the subpoenaed person carries on
23 business or may be found, to compel compliance with the subpoena.
24 The court may issue an order requiring the subpoenaed person to

1 appear before the ~~Director~~ Commissioner to produce records, if so
2 ordered, or to give testimony touching the matter under
3 investigation. Any failure to obey the order of the court may be
4 punished by the court as an indirect contempt thereof. All process
5 in any such case may be served in any judicial district in which
6 such person may be found.

7 E. The district court of the county wherein the subpoena is
8 served may quash a subpoena issued pursuant to this section, upon a
9 motion to quash the subpoena filed with the court by the party to
10 whom the subpoena is issued.

11 SECTION 6. AMENDATORY 63 O.S. 2001, Section 2-105, is
12 amended to read as follows:

13 Section 2-105. It shall be the duty of all departments,
14 officers, agencies, and employees of the state to cooperate with the
15 ~~Director of the State Bureau of Narcotics and Dangerous Drugs~~
16 ~~Control~~ Commissioner of Public Safety in carrying out the ~~functions~~
17 ~~of his office~~ duties of the Commissioner of Public Safety pursuant
18 to the Uniform Controlled Dangerous Substances Act. The State
19 Medical Examiner shall promptly report to the office of the ~~Director~~
20 Commissioner all deaths occurring within the state which were the
21 result or probable result of abuse of a controlled dangerous
22 substance.

23 SECTION 7. AMENDATORY 63 O.S. 2001, Section 2-106, is
24 amended to read as follows:

1 Section 2-106. A. The ~~Director~~ Commissioner of Public Safety
2 shall, in addition to other powers and duties vested in ~~him~~ the
3 Commissioner:

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

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

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

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

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

22 B. Results, information and evidence received from the Federal
23 Bureau of Narcotics and Dangerous Drugs relating to the regulatory
24 functions of ~~this act~~ the Uniform Controlled Dangerous Substances

1 Act, including results of inspections conducted by that agency, may
2 be relied upon and acted upon by the ~~Director~~ Commissioner in
3 conformance with ~~his~~ regulatory functions under ~~this act~~ the Uniform
4 Controlled Dangerous Substances Act.

5 C. The ~~Director~~ Commissioner is further authorized and directed
6 to:

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

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

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

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

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

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

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

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

8 9. Supervise and direct agents appointed in the performance of
9 their function of enforcement of the provisions of ~~this act~~ the
10 Uniform Controlled Dangerous Substances Act.

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

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

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

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

21 a. develop new or improved approaches, techniques,
22 systems, equipment and devices to strengthen the
23 enforcement of this act~~;~~;

24

1 b. determine patterns of misuse and abuse of controlled
2 dangerous substances and the social effects thereof, and
3 and

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

7 E. The ~~Director~~ Commissioner may enter into contracts with
8 public agencies, institutions of higher education and private
9 organizations or individuals for the purpose of conducting research,
10 demonstrations or special projects which bear directly on misuse and
11 abuse of controlled dangerous substances.

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

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

22 H. The ~~Director~~ Commissioner may authorize the lawful
23 possession, distribution and use of controlled dangerous substances
24 by persons engaged in research or scientific activities;

1 authorization for possession of controlled dangerous substances may
2 be extended to persons engaged in a program of drug education or
3 persons in the performance of an official duty. Persons who obtain
4 this authorization shall be exempt from state prosecution for
5 possession, distribution or use of dangerous substances to the
6 extent authorized by the ~~Director~~ Commissioner.

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

11 J. The ~~Director~~ Commissioner shall be in charge of all monies
12 appropriated for or deposited to the credit of the office of the
13 ~~Director~~ Commissioner for the purposes of carrying out the
14 provisions of the Uniform Controlled Dangerous Substances Act and is
15 authorized to approve claims and payrolls as provided in Section
16 41.26 of Title 62 of the Oklahoma Statutes.

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

20 SECTION 8. AMENDATORY 63 O.S. 2001, Section 2-106.1, is
21 amended to read as follows:

22 Section 2-106.1 ~~The Oklahoma State Bureau of Narcotics and~~
23 ~~Dangerous Drugs Control~~ Department of Public Safety is hereby
24 authorized to lease the seaplane owned by ~~said Bureau~~ the

1 Department. Said lease shall not be subject to the provisions of
2 Section 85.5 of Title 74 of the Oklahoma Statutes and shall not have
3 to be approved by the ~~Office of Public Affairs~~ Department of Central
4 Services.

5 SECTION 9. AMENDATORY 63 O.S. 2001, Section 2-107, is
6 amended to read as follows:

7 Section 2-107. There is hereby created in the State Treasury a
8 revolving fund for the ~~Oklahoma State Bureau of Narcotics and~~
9 ~~Dangerous Drugs Control~~ Department of Public Safety to be designated
10 the "~~Bureau of Narcotics~~ Department of Public Safety Dangerous Drugs
11 Control Revolving Fund". The fund shall be a continuing fund, not
12 subject to fiscal year limitations, and shall consist of any monies
13 received from the sale of surplus and confiscated property, fees and
14 receipts collected pursuant to the Oklahoma Open Records Act, gifts,
15 bequests, devises, contributions or grants, public or private,
16 including federal funds unless otherwise provided by federal law or
17 regulation, registration fees and receipts relating to prescription
18 pads and receipts from any other source. All monies accruing to the
19 credit of said fund are hereby appropriated and may be budgeted and
20 expended by the ~~Oklahoma State Bureau of Narcotics and Dangerous~~
21 ~~Drugs Control~~ Department of Public Safety for ~~general operations of~~
22 ~~the agency~~ administration and enforcement of the provisions of the
23 Uniform Controlled Dangerous Substances Act. Expenditures from said
24 fund shall be made upon warrants issued by the State Treasurer

1 against claims filed as prescribed by law with the Director of State
2 Finance for approval and payment.

3 SECTION 10. AMENDATORY 63 O.S. 2001, Section 2-109, is
4 amended to read as follows:

5 Section 2-109. ~~The Oklahoma Bureau of Narcotics and Dangerous~~
6 ~~Drugs Control~~ Department of Public Safety is hereby authorized to
7 rent and/or charter aircraft on a project mission basis for
8 enforcement of the provisions of the Uniform Controlled Dangerous
9 Substances Act; such rental or charter to last only for the duration
10 of the project mission. ~~The Bureau~~ Department is also authorized to
11 pay, from any funds available to the ~~Bureau~~ Department, expenses
12 involved in qualifying multiengine and instrument pilots as may be
13 required to accomplish agency responsibilities pursuant to the
14 provisions of the Uniform Controlled Dangerous Substances Act.

15 SECTION 11. AMENDATORY 63 O.S. 2001, Section 2-110, is
16 amended to read as follows:

17 Section 2-110. ~~The Director of the Oklahoma State Bureau of~~
18 ~~Narcotics and Dangerous Drugs Control~~ Commissioner of Public Safety
19 may employ attorneys, who shall be unclassified employees of the
20 state, or contract with attorneys, as needed for the enforcement and
21 administration of the provisions of the Uniform Controlled Dangerous
22 Substances Act. These attorneys may advise the ~~Director, the~~
23 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~
24 ~~Commission and Bureau~~ Commissioner and Department personnel on all

1 legal matters and shall appear for and represent the ~~Director, the~~
2 ~~Commission~~ Commissioner and ~~Bureau~~ Department personnel in all
3 administrative hearings and all litigation or other proceedings
4 which may arise in the discharge of their duties. At the request of
5 the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~
6 ~~Commission~~ Commissioner, such attorney shall assist the district
7 attorney in prosecuting charges of violators of the Uniform
8 Controlled Dangerous Substances Act or any felony relating to or
9 arising from a violation of the Uniform Controlled Dangerous
10 Substances Act. Provided, if a conflict of interest would be
11 created by such attorney representing the ~~Director, the Commission~~
12 ~~or Bureau~~ Commissioner or Department personnel, additional counsel
13 may be hired upon approval of the ~~Oklahoma State Bureau of Narcotics~~
14 ~~and Dangerous Drugs Control~~ Commissioner. Any classified
15 employee who is serving in an attorney position which is subject to
16 the Merit System of Personnel Administration on the effective date
17 of this act shall have the option of retaining such classified
18 status. An incumbent who chooses to remain in the classified
19 service shall be subject to all provisions and conditions of the
20 Merit System of Personnel Administration. An incumbent who chooses
21 to change status from classified to unclassified shall so indicate
22 in writing. All future appointees to such positions shall be in the
23 unclassified service.

24

1 SECTION 12. AMENDATORY 63 O.S. 2001, Section 2-201, is
2 amended to read as follows:

3 Section 2-201. A. The Commissioner of Public Safety shall
4 administer the provisions of ~~this act~~ the Uniform Controlled
5 Dangerous Substances Act except as otherwise provided.

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

24

1 C. The Commissioner may recommend to the Legislature the
2 addition, deletion or rescheduling of a substance.

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

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

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

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

24

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

5 SECTION 13. AMENDATORY 63 O.S. 2001, Section 2-204, as
6 amended by Section 1, Chapter 283, O.S.L. 2005 (63 O.S. Supp. 2006,
7 Section 2-204), is amended to read as follows:

8 Section 2-204. The controlled substances listed in this section
9 are included in Schedule I.

10 A. Any of the following opiates, including their isomers,
11 esters, ethers, salts, and salts of isomers, esters, and ethers,
12 unless specifically excepted, when the existence of these isomers,
13 esters, ethers, and salts is possible within the specific chemical
14 designation:

- 15 1. Acetylmethadol;
- 16 2. Allylprodine;
- 17 3. Alphacetylmethadol;
- 18 4. Alphameprodine;
- 19 5. Alphamethadol;
- 20 6. Benzethidine;
- 21 7. Betacetylmethadol;
- 22 8. Betameprodine;
- 23 9. Betamethadol;
- 24 10. Betaprodine;

- 1 11. Clonitazene;
- 2 12. Dextromoramide;
- 3 13. Dextrorphan (except its methyl ether);
- 4 14. Diampromide;
- 5 15. Diethylthiambutene;
- 6 16. Dimenoxadol;
- 7 17. Dimepheptanol;
- 8 18. Dimethylthiambutene;
- 9 19. Dioxaphetyl butyrate;
- 10 20. Dipipanone;
- 11 21. Ethylmethylthiambutene;
- 12 22. Etonitazene;
- 13 23. Etoxeridine;
- 14 24. Furethidine;
- 15 25. Hydroxypethidine;
- 16 26. Ketobemidone;
- 17 27. Levomoramide;
- 18 28. Levophenacylmorphane;
- 19 29. Morpheridine;
- 20 30. Noracymethadol;
- 21 31. Norlevorphanol;
- 22 32. Normethadone;
- 23 33. Norpipanone;
- 24 34. Phenadoxone;

- 1 35. Phenampromide;
- 2 36. Phenomorphan;
- 3 37. Phenoperidine;
- 4 38. Piritramide;
- 5 39. Proheptazine;
- 6 40. Properidine;
- 7 41. Racemoramide;
- 8 42. Trimeperidine; or
- 9 43. Flunitrazepam.

10 B. Any of the following opium derivatives, their salts,
11 isomers, and salts of isomers, unless specifically excepted, when
12 the existence of these salts, isomers, and salts of isomers is
13 possible within the specific chemical designation:

- 14 1. Acetorphine;
- 15 2. Acetyldihydrocodeine;
- 16 3. Benzylmorphine;
- 17 4. Codeine methylbromide;
- 18 5. Codeine-N-Oxide;
- 19 6. Cyprenorphine;
- 20 7. Desomorphine;
- 21 8. Dihydromorphine;
- 22 9. Etorphine;
- 23 10. Heroin;
- 24 11. Hydromorphanol;

- 1 12. Methyldesorphine;
- 2 13. Methylhydromorphine;
- 3 14. Morphine methylbromide;
- 4 15. Morphine methylsulfonate;
- 5 16. Morphine-N-Oxide;
- 6 17. Myrophine;
- 7 18. Nicocodeine;
- 8 19. Nicomorphine;
- 9 20. Normorphine;
- 10 21. Phoclodine; or
- 11 22. Thebacon.

12 C. Any material, compound, mixture, or preparation which
13 contains any quantity of the following hallucinogenic substances,
14 their salts, isomers, and salts of isomers, unless specifically
15 excepted, when the existence of these salts, isomers, and salts of
16 isomers is possible within the specific chemical designation:

- 17 1. Methcathinone;
- 18 2. 3, 4-methylenedioxy amphetamine;
- 19 3. 3, 4-methylenedioxy methamphetamine;
- 20 4. 5-methoxy-3, 4-methylenedioxy amphetamine;
- 21 5. 3, 4, 5-trimethoxy amphetamine;
- 22 6. Bufotenine;
- 23 7. Diethyltryptamine;
- 24 8. Dimethyltryptamine;

- 1 9. 4-methyl-2, 5-dimethoxyamphetamine;
- 2 10. Ibogaine;
- 3 11. Lysergic acid diethylamide;
- 4 12. Marihuana;
- 5 13. Mescaline;
- 6 14. N-ethyl-3-piperidyl benzilate;
- 7 15. N-methyl-3-piperidyl benzilate;
- 8 16. Psilocybin;
- 9 17. Psilocyn;
- 10 18. 2, 5 dimethoxyamphetamine;
- 11 19. 4 Bromo-2, 5-dimethoxyamphetamine;
- 12 20. 4 methoxyamphetamine;
- 13 21. Cyclohexamine;
- 14 22. Thiophene Analog of Phencyclidine. Also known as: 1-(1-(2-
- 15 thienyl) cyclohexyl) piperidine; 2-Thienyl Analog of Phencyclidine;
- 16 TCP, TCP;
- 17 23. Phencyclidine (PCP); or
- 18 24. Pyrrolidine Analog for Phencyclidine. Also known as 1-(1-
- 19 Phenylcyclohexyl) - Pyrrolidine, PCPy, PHP.
- 20 D. Unless specifically excepted or unless listed in a different
- 21 schedule, any material, compound, mixture, or preparation which
- 22 contains any quantity of the following substances having stimulant
- 23 or depressant effect on the central nervous system:
- 24 1. Fenethylamine;

- 1 2. Mecloqualone;
- 2 3. N-ethylamphetamine;
- 3 4. Methaqualone;
- 4 5. Gamma-Hydroxybutyric Acid, also known as GHB, gamma-
- 5 hydroxybutyrate, 4-hydroxybutyrate, 4-hydroxybutanoic acid, sodium
- 6 oxybate, and sodium oxybutyrate;
- 7 6. Gamma-Butyrolactone (GBL) as packaged, marketed,
- 8 manufactured or promoted for human consumption, with the exception
- 9 of legitimate food additive and manufacturing purposes;
- 10 7. Gamma Hydroxyvalerate (GHV) as packaged, marketed, or
- 11 manufactured for human consumption, with the exception of legitimate
- 12 food additive and manufacturing purposes;
- 13 8. Gamma Valerolactone (GVL) as packaged, marketed, or
- 14 manufactured for human consumption, with the exception of legitimate
- 15 food additive and manufacturing purposes; or
- 16 9. 1,4 Butanediol (1,4 BD or BDO) as packaged, marketed,
- 17 manufactured, or promoted for human consumption with the exception
- 18 of legitimate manufacturing purposes.

19 E. 1. The following industrial uses of Gamma-Butyrolactone,
20 Gamma Hydroxyvalerate, Gamma Valerolactone, or 1,4 Butanediol are
21 excluded from all schedules of controlled substances under this
22 title:

- 23 a. pesticides,
- 24 b. photochemical etching,

- c. electrolytes of small batteries or capacitors,
- d. viscosity modifiers in polyurethane,
- e. surface etching of metal coated plastics,
- f. organic paint disbursements for water soluble inks,
- g. pH regulators in the dyeing of wool and polyamide fibers,
- h. foundry chemistry as a catalyst during curing,
- i. curing agents in many coating systems based on urethanes and amides,
- j. additives and flavoring agents in food, confectionary, and beverage products,
- k. synthetic fiber and clothing production,
- l. tetrahydrofuran production,
- m. gamma butyrolactone production,
- n. polybutylene terephthalate resin production,
- o. polyester raw materials for polyurethane elastomers and foams,
- p. coating resin raw material, and
- q. as an intermediate in the manufacture of other chemicals and pharmaceuticals.

2. At the request of any person, the ~~Director~~ Commissioner of Public Safety may exempt any other product containing Gamma-Butyrolactone, Gamma Hydroxyvalerate, Gamma Valerolactone, or 1,4 Butanediol from being included as a Schedule I controlled substance

1 if such product is labeled, marketed, manufactured and distributed
2 for legitimate industrial use in a manner that reduces or eliminates
3 the likelihood of abuse.

4 3. In making a determination regarding an industrial product,
5 the ~~Director~~ Commissioner, after notice and hearing, shall consider
6 the following:

- 7 a. the history and current pattern of abuse,
- 8 b. the name and labeling of the product,
- 9 c. the intended manner of distribution, advertising and
10 promotion of the product, and
- 11 d. other factors as may be relevant to and consistent
12 with the public health and safety.

13 4. The hearing shall be held in accordance with the procedures
14 of the Administrative Procedures Act.

15 SECTION 14. AMENDATORY 63 O.S. 2001, Section 2-210, as
16 amended by Section 1, Chapter 52, O.S.L. 2002 (63 O.S. Supp. 2006,
17 Section 2-210), is amended to read as follows:

18 Section 2-210. A. Any material, compound, mixture, or
19 preparation which contains any quantity of the following substances
20 having a potential for abuse associated with a stimulant or
21 depressant effect on the central nervous system:

- 22 1. Chloral betaine;
- 23 2. Chloral hydrate;
- 24 3. Ethchlorvynol;

- 1 4. Ethinamate;
- 2 5. Meproamate;
- 3 6. Paraldehyde;
- 4 7. Petrichloral;
- 5 8. Diethylpropion;
- 6 9. Phentermine;
- 7 10. Pemoline;
- 8 11. Chlordiazepoxide;
- 9 12. Chlordiazepoxide and its salts, but not including
- 10 chlordiazepoxide hydrochloride and clidinium bromide or
- 11 chlordiazepoxide and water-soluble esterified estrogens;
- 12 13. Diazepam;
- 13 14. Oxazepam;
- 14 15. Clorazepate;
- 15 16. Flurazepam and its salts;
- 16 17. Clonazepam;
- 17 18. Barbitol;
- 18 19. Mebutamate;
- 19 20. Methohexital;
- 20 21. Methylphenobarbital;
- 21 22. Phenobarbital;
- 22 23. Fenfluramine;
- 23 24. Pentazocine;
- 24 25. Dextropropoxyphene;

- 1 26. Butorphanol;
- 2 27. Alprazolam;
- 3 28. Halazepam;
- 4 29. Lorazepam;
- 5 30. Prazepam;
- 6 31. Temazepam;
- 7 32. Triazolam;
- 8 33. Carisoprodol;
- 9 34. Ephedrine, its salts, optical isomers, and salts of optical
- 10 isomers as the only active ingredient, or in combination with other
- 11 active ingredients; or
- 12 35. Dichloralphenazone.

13 B. 1. The following nonnarcotic substances, which may, under
14 the Federal Food, Drug, and Cosmetic Act (21 U.S.C., Section 301),
15 be lawfully sold over the counter without a prescription, are
16 excluded from all schedules of controlled substances under this
17 title:

- 18 a. Breathe-Aid,
- 19 b. BronCare,
- 20 c. Bronchial Congestion,
- 21 d. Bronkaid Tablets,
- 22 e. Bronkaid Dual Action Caplets,
- 23 f. Bronkotabs,
- 24 g. Bronkolixir,

- 1 h. NeoRespin,
- 2 i. Pazo Hemorrhoid Ointment and Suppositories,
- 3 j. Primatene Tablets,
- 4 k. Primatene "Dual Action" Formula,
- 5 l. Quelidrine,
- 6 m. Resp, and
- 7 n. Vatronal Nose Drops.

8 2. At the request of any person, the ~~Director~~ Commissioner of
9 Public Safety may exempt any other drug product containing ephedrine
10 from being included as a Schedule IV controlled substance if such
11 product:

- 12 a. is labeled and marketed in a manner consistent with
13 the pertinent OTC tentative final or final monograph
14 issued by the FDA, and
- 15 b. is manufactured and distributed for legitimate
16 medicinal use and in a manner that reduces or
17 eliminates the likelihood of abuse.

18 3. In making a determination regarding a drug product, the
19 ~~Director~~ Commissioner, after notice and hearing, shall consider the
20 following:

- 21 a. the history and current pattern of abuse,
- 22 b. the name and labeling of the product,
- 23 c. the intended manner of distribution, advertising and
24 promotion of the product, and

1 d. other factors as may be relevant to and consistent
2 with the public health and safety.

3 4. The hearing shall be held in accordance with the Oklahoma
4 Administrative Procedures Act.

5 5. A list of current drug products meeting exemption
6 requirements under this subsection may be obtained from the Bureau
7 upon written request.

8 C. The Board of Pharmacy may except by rule any compound,
9 mixture, or preparation containing any depressant substance listed
10 in subsection A of this section from the application of all or any
11 part of the Uniform Controlled Dangerous Substances Act, Section 2-
12 101 et seq. of this title, if the compound, mixture, or preparation
13 contains one or more active medicinal ingredients not having a
14 depressant effect on the central nervous system, and if the
15 admixtures are included therein in combinations, quantity,
16 proportion, or concentration that vitiate the potential for abuse of
17 the substances which have a depressant effect on the central nervous
18 system.

19 SECTION 15. AMENDATORY 63 O.S. 2001, Section 2-212, as
20 last amended by Section 2, Chapter 128, O.S.L. 2005 (63 O.S. Supp.
21 2006, Section 2-212), is amended to read as follows:

22 Section 2-212. A. The controlled substances listed in this
23 section are included in Schedule V.

1 1. Any compound, mixture, or preparation containing limited
2 quantities of any of the following narcotic drugs, which also
3 contains one or more nonnarcotic active medicinal ingredients in
4 sufficient proportion to confer upon the compound, mixture, or
5 preparation, valuable medicinal qualities other than those possessed
6 by the narcotic drug alone:

7 a. not more than two hundred (200) milligrams of codeine,
8 or any of its salts, per one hundred (100) milliliters
9 or per one hundred (100) grams,

10 b. not more than one hundred (100) milligrams of
11 dihydrocodeine, or any of its salts, per one hundred
12 (100) milliliters or per one hundred (100) grams,

13 c. not more than one hundred (100) milligrams of
14 ethylmorphine, or any of its salts, per one hundred
15 (100) milliliters or per one hundred (100) grams,

16 d. not more than two and five-tenths (2.5) milligrams of
17 diphenoxylate and not less than twenty-five (25)
18 micrograms of atropine sulfate per dosage unit, or

19 e. not more than one hundred (100) milligrams of opium
20 per one hundred (100) milliliters or per one hundred
21 (100) grams.

22 2. Any compound, mixture, or preparation containing any
23 detectable quantity of pseudoephedrine, its salts or optical
24 isomers, or salts of optical isomers. If any compound, mixture, or

1 preparation as specified in this paragraph is dispensed, sold, or
2 distributed in a pharmacy:

3 a. it shall be dispensed, sold, or distributed only by,
4 or under the supervision of, a licensed pharmacist or
5 a registered pharmacy technician, and

6 b. any person purchasing, receiving, or otherwise
7 acquiring any compound, mixture, or preparation shall
8 produce a driver license or other state-issued
9 identification card and shall sign a written log,
10 receipt, or other program or mechanism approved by the
11 ~~Oklahoma Bureau of Narcotics and Dangerous Drugs~~
12 ~~Control~~ Department of Public Safety, showing:

- 13 (1) the date of the transaction,
- 14 (2) name of the purchaser,
- 15 (3) driver license number or state-issued
16 identification number and state of residence of
17 the purchaser,
- 18 (4) name and initials of the pharmacist or pharmacy
19 technician conducting the transaction,
- 20 (5) the product being sold, and
- 21 (6) total quantity, in grams or milligrams, of
22 pseudoephedrine purchased.

23 No person shall purchase, receive, or otherwise acquire more
24 than nine (9) grams of any product, mixture, or preparation within

1 any thirty-day period. Provided, the requirements of this
2 subsection shall not apply to any quantity of such product, mixture
3 or preparation dispensed pursuant to a valid prescription.

4 B. The Schedule, as specified in paragraph 2 of subsection A,
5 shall not apply to any compounds, mixtures, or preparations which
6 are in liquid, liquid capsule, or gel capsule form if
7 pseudoephedrine is not the only active ingredient.

8 C. ~~The Director of the Oklahoma State Bureau of Narcotics and~~
9 ~~Dangerous Drugs Control~~ Commissioner of Public Safety, by rule, may
10 exempt other products from this Schedule which the ~~Director~~
11 Commissioner finds are not used in the illegal manufacture of
12 methamphetamine or other controlled dangerous substances. A
13 manufacturer of a drug product may apply for removal of the product
14 from the Schedule if the product is determined by the ~~Director~~
15 Commissioner to have been formulated in such a way as to effectively
16 prevent the conversion of the active ingredient into
17 methamphetamine.

18 D. As used in this section:

19 1. "Gel capsule" means any soft gelatin, liquid-filled capsule
20 that contains a liquid suspension, which, in the case of
21 pseudoephedrine, is suspended in a matrix of glycerin, polyethylene
22 glycol, and propylene glycol, along with other liquid substances.
23 Regardless of product manufacturer labeling, a gelatin-covered solid
24 does not constitute a gel capsule under this definition; and

1 2. "Active ingredient" shall include the matrix of glycerin,
2 polyethylene glycol, and propylene glycol that is found in liquid
3 capsules.

4 SECTION 16. AMENDATORY 63 O.S. 2001, Section 2-301, as
5 amended by Section 3, Chapter 338, O.S.L. 2003 (63 O.S. Supp. 2006,
6 Section 2-301), is amended to read as follows:

7 Section 2-301. A. The Commissioner of Public Safety is
8 authorized to promulgate rules and regulations relating to the
9 registration and control of the manufacture, distribution,
10 dispensing, prescribing, administering or use for scientific
11 purposes of controlled dangerous substances within this state.
12 Until such rules and regulations are promulgated, the rules and
13 regulations promulgated by the Director of the Oklahoma State Bureau
14 of Narcotics and Dangerous Drugs Control shall remain in effect.
15 All proceedings before the office of Commissioner pursuant to this
16 section shall be governed by the Administrative Procedures Act.

17 B. The Commissioner shall promulgate rules relating to the
18 training, certification and registration of animal control officers
19 for the purpose of authorizing such individuals to purchase, possess
20 and administer controlled dangerous substances for animal control
21 within this state and operating under the parameters of Sections 501
22 through 508 of Title 4 of the Oklahoma Statutes. In promulgating
23 such rules, the Commissioner shall cooperate with any federal, state
24 or local entity with jurisdiction over the euthanasia of animals.

1 SECTION 17. AMENDATORY 63 O.S. 2001, Section 2-302, as
2 last amended by Section 2, Chapter 40, O.S.L. 2005 (63 O.S. Supp.
3 2006, Section 2-302), is amended to read as follows:

4 Section 2-302. A. Every person who manufactures, distributes,
5 dispenses, prescribes, administers or uses for scientific purposes
6 any controlled dangerous substance within this state, or who
7 proposes to engage in the manufacture, distribution, dispensing,
8 prescribing, administering or use for scientific purposes of any
9 controlled dangerous substance within this state shall obtain a
10 registration issued by the ~~Director of the Oklahoma State Bureau of~~
11 ~~Narcotics and Dangerous Drugs Control~~ Commissioner of Public Safety,
12 in accordance with rules promulgated by the ~~Director~~ Commissioner.
13 Persons registered by the ~~Director~~ Commissioner under Section 2-101
14 et seq. of this title to manufacture, distribute, dispense, or
15 conduct research with controlled dangerous substances may possess,
16 manufacture, distribute, dispense, or conduct research with those
17 substances to the extent authorized by their registration and in
18 conformity with the other provisions of this article. Every
19 wholesaler, manufacturer or distributor of any drug product
20 containing pseudoephedrine or phenylpropanolamine, or their salts,
21 isomers, or salts of isomers shall obtain a registration issued by
22 the ~~Director of the Oklahoma State Bureau of Narcotics and Dangerous~~
23 ~~Drugs Control~~ Commissioner in accordance with rules promulgated by

24

1 the ~~Director~~ Commissioner and as provided for in Section 2-332 of
2 this title.

3 B. Out-of-state pharmaceutical suppliers who provide controlled
4 dangerous substances to individuals within this state shall obtain a
5 registration issued by the ~~Director of the Oklahoma State Bureau of~~
6 ~~Narcotics and Dangerous Drugs Control~~ Commissioner, in accordance
7 with rules promulgated by the ~~Director~~ Commissioner; provided that
8 this provision shall not apply to wholesale distributors who ship
9 controlled dangerous substances to pharmacies or other entities
10 registered within this state in accordance with rules promulgated by
11 the ~~Director~~ Commissioner.

12 C. Manufacturers, distributors, home care agencies, hospices,
13 home care services, and scientific researchers shall obtain a
14 registration annually. Other practitioners shall obtain a
15 registration for a period to be determined by the ~~Director~~
16 Commissioner that will be for a period not less than one (1) year
17 nor more than three (3) years.

18 D. Every trainer or handler of a canine controlled dangerous
19 substances detector who, in the ordinary course of such trainer's or
20 handler's profession, desires to possess any controlled dangerous
21 substance, annually, shall obtain a registration issued by the
22 ~~Director~~ Commissioner for a fee of Seventy Dollars (\$70.00). Such
23 persons shall be subject to all applicable provisions of Section 2-
24 101 et seq. of this title and such applicable rules promulgated by

1 the Director for those individuals identified in subparagraph a of
2 paragraph 32 of Section 2-101 of this title. Persons registered by
3 the ~~Director~~ Commissioner pursuant to this subsection may possess
4 controlled dangerous substances to the extent authorized by their
5 registration and in conformity with the other provisions of this
6 article.

7 E. The following persons shall not be required to register and
8 may lawfully possess controlled dangerous substances under the
9 provisions of Section 2-101 et seq. of this title:

10 1. An agent, or an employee thereof, of any registered
11 manufacturer, distributor, dispenser or user for scientific purposes
12 of any controlled dangerous substance, if such agent is acting in
13 the usual course of such agent's or employee's business or
14 employment;

15 2. Any person lawfully acting under the direction of a person
16 authorized to administer controlled dangerous substances under
17 Section 2-312 of this title;

18 3. A common or contract carrier or warehouseman, or an employee
19 thereof, whose possession of any controlled dangerous substance is
20 in the usual course of such carrier's or warehouseman's business or
21 employment;

22 4. An ultimate user or a person in possession of any controlled
23 dangerous substance pursuant to a lawful order of a practitioner;

24

1 5. An individual pharmacist acting in the usual course of such
2 pharmacist's employment with a pharmacy registered pursuant to the
3 provisions of Section 2-101 et seq. of this title;

4 6. A nursing home licensed by this state;

5 7. Any Department of Mental Health and Substance Abuse Services
6 employee or any person whose facility contracts with the Department
7 of Mental Health and Substance Abuse Services whose possession of
8 any dangerous drug, as defined in Section 353.1 of Title 59 of the
9 Oklahoma Statutes, is for the purpose of delivery of a mental health
10 consumer's medicine to the consumer's home or residence; and

11 8. Registered nurses and licensed practical nurses.

12 F. The ~~Director~~ Commissioner may, by rule, waive the
13 requirement for registration or fee for registration of certain
14 manufacturers, distributors, dispensers, prescribers,
15 administrators, or users for scientific purposes if the ~~Director~~
16 Commissioner finds it consistent with the public health and safety.

17 G. A separate registration shall be required at each principal
18 place of business or professional practice where the applicant
19 manufactures, distributes, dispenses, prescribes, administers, or
20 uses for scientific purposes controlled dangerous substances.

21 H. The ~~Director~~ Commissioner is authorized to inspect the
22 establishment of a registrant or applicant for registration in
23 accordance with rules promulgated by the ~~Director~~ Commissioner.

1 I. No person engaged in a profession or occupation for which a
2 license to engage in such activity is provided by law shall be
3 registered under this act unless such person holds a valid license
4 of such person's profession or occupation.

5 J. Registrations shall be issued on the first day of November
6 of each year. Registrations may be issued at other times, however,
7 upon certification of the professional licensing board.

8 K. The licensing boards of all professions and occupations to
9 which the use of controlled dangerous substances is incidental shall
10 furnish a current list to the ~~Director~~ Commissioner, not later than
11 the first day of October of each year, of the persons holding valid
12 licenses. All such persons except persons exempt from registration
13 requirements under subsection E of this section shall be subject to
14 the registration requirements of Section 2-101 et seq. of this
15 title.

16 L. The licensing board of any professional defined as a mid-
17 level practitioner shall notify and furnish to the ~~Director~~
18 Commissioner, not later than the first day of October of each year
19 that such professional holds a valid license, a current listing of
20 individuals licensed and registered with their respective boards to
21 prescribe, order, select, obtain and administer controlled dangerous
22 substances. The licensing board shall immediately notify the
23 ~~Director~~ Commissioner of any action subsequently taken against any
24 such individual.

1 SECTION 18. AMENDATORY 63 O.S. 2001, Section 2-303, as
2 last amended by Section 61, Chapter 5, O.S.L. 2004 (63 O.S. Supp.
3 2006, Section 2-303), is amended to read as follows:

4 Section 2-303. A. ~~The Director of the Oklahoma State Bureau of~~
5 ~~Narcotics and Dangerous Drugs Control~~ Commissioner of Public Safety
6 shall register an applicant to manufacture, distribute, dispense,
7 prescribe, administer or use for scientific purposes controlled
8 dangerous substances included in Schedules I through V of Section 2-
9 101 et seq. of this title unless the ~~Director~~ Commissioner
10 determines that the issuance of such registration is inconsistent
11 with the public interest. In determining the public interest, the
12 following factors shall be considered:

13 1. Maintenance of effective controls against diversion of
14 particular controlled dangerous substances and any Schedule I or II
15 substance compounded therefrom into other than legitimate medical,
16 scientific or industrial channels, including examination of the
17 fitness of ~~his~~ employees or agents to handle dangerous substances;

18 2. Compliance with applicable state and local law;

19 3. Prior conviction record of applicant under federal or state
20 laws relating to the manufacture, distribution or dispensing of such
21 substances;

22 4. Furnishing by the applicant false or fraudulent material
23 information in any application filed under Section 2-101 et seq. of
24 this title;

1 5. Past experience in the manufacture, distribution,
2 dispensing, prescribing, administering or use for scientific
3 purposes of controlled dangerous substances, and the existence in
4 the establishment of effective controls against diversion;

5 6. Denial, suspension or revocation of the applicant's federal
6 registration to manufacture, distribute or dispense controlled
7 dangerous substances as authorized by federal law; and

8 7. Such other factors as may be relevant to and consistent with
9 the public health and safety.

10 Nothing herein shall be deemed to require individual licensed
11 pharmacists to register under the provisions of the Uniform
12 Controlled Dangerous Substances Act.

13 B. Registration granted under subsection A of this section
14 shall not entitle a registrant to manufacture, distribute, dispense,
15 prescribe, administer or use for scientific purposes controlled
16 dangerous substances in Schedule I or II other than those specified
17 in the registration.

18 C. Practitioners shall be registered to dispense, prescribe,
19 administer or use for scientific purposes substances in Schedules II
20 through V if they are authorized to carry on their respective
21 activities under the laws of this state. A registration application
22 by a practitioner who wishes to conduct research with Schedule I
23 substances shall be accompanied by evidence of the applicant's
24 federal registration to conduct such activity and shall be referred

1 to the Medical Research Commission for advice. The Medical Research
2 Commission shall promptly advise the ~~Director~~ Commissioner
3 concerning the qualifications of each practitioner requesting such
4 registration. Registration for the purpose of bona fide research or
5 of use for scientific purposes with Schedule I substances by a
6 practitioner deemed qualified by the Medical Research Commission may
7 be denied only on a ground specified in subsection A of Section 2-
8 304 of this title or if there are reasonable grounds to believe that
9 the applicant will abuse or unlawfully transfer such substances or
10 fail to safeguard adequately such applicant's supply of such
11 substances against diversion from legitimate medical or scientific
12 use.

13 D. 1. The ~~Director~~ Commissioner shall initially permit persons
14 to register who own or operate any establishment engaged in the
15 manufacture, distribution, dispensing, prescribing, administering or
16 use for scientific purposes of any controlled dangerous substances
17 prior to June 4, 1991, and who are registered or licensed by the
18 state. Fees for registration under this section shall be as
19 follows:

20	Practitioners and		
21	mid-level		
22	practitioners	\$70.00	per year
23			of
24			registration

1	Home Care Agencies,		
2	Hospices & Home		
3	Care Services	\$70.00	annually
4	Distributors	\$100.00	annually
5	Manufacturers	\$200.00	annually
6	Manufacturer, Wholesaler, or		
7	Distributor of drug products		
8	containing pseudoephedrine or		
9	phenylpropanolamine	\$100.00	annually

10 2. A registrant shall be required to pay double the amount of
11 the above-listed fee for any renewal of registration received more
12 than sixty (60) days late.

13 3. A Ten Dollar (\$10.00) fee shall be charged for a duplicate
14 registration certificate.

15 E. Compliance by manufacturers and distributors with the
16 provisions of the Federal Controlled Substances Act, 21 U.S.C.,
17 Section 801 et seq., respecting registration, excluding fees, shall
18 be deemed sufficient to qualify for registration under this act.

19 SECTION 19. AMENDATORY 63 O.S. 2001, Section 2-304, is
20 amended to read as follows:

21 Section 2-304. A. A registration, pursuant to Section 2-303 of
22 this title, to manufacture, distribute, dispense, prescribe,
23 administer or use for scientific purposes a controlled dangerous
24 substance shall be limited, conditioned, denied, suspended or

1 | revoked by the ~~Director~~ Commissioner of Public Safety upon a finding
2 | that the registrant:

3 | 1. Has materially falsified any application filed pursuant to
4 | this act or required by this act;

5 | 2. Has been found guilty of, entered a plea of guilty, or
6 | entered a plea of nolo contendere to a misdemeanor relating to any
7 | substance defined herein as a controlled dangerous substance or any
8 | felony under the laws of any state or the United States;

9 | 3. Has had ~~his~~ a federal registration retired, suspended, or
10 | revoked by a competent federal authority and is no longer authorized
11 | by federal law to manufacture, distribute, dispense, prescribe,
12 | administer or use for scientific purposes controlled dangerous
13 | substances;

14 | 4. Has failed to maintain effective controls against the
15 | diversion of controlled dangerous substances to unauthorized persons
16 | or entities;

17 | 5. Has prescribed, dispensed or administered a controlled
18 | dangerous substance from schedules other than those specified in ~~his~~
19 | the registrant's state or federal registration;

20 | 6. Has had a restriction, suspension, revocation, limitation,
21 | condition, or probation placed on ~~his~~ a professional license or
22 | certificate or practice as a result of a proceeding pursuant to the
23 | general statutes;

24 |

1 7. Is abusing or, within the past five (5) years, has abused or
2 excessively used drugs or controlled dangerous substances;

3 8. Has prescribed, sold, administered, or ordered any
4 controlled substance for an immediate family member, himself or
5 herself; provided that this shall not apply to a medical emergency
6 when no other doctor is available to respond to the emergency;

7 9. Has possessed, used, prescribed, dispensed or administered
8 drugs or controlled dangerous substances for other than legitimate
9 medical or scientific purposes or for purposes outside the normal
10 course of ~~his~~ professional practice;

11 10. Has been under the influence of alcohol or another
12 intoxicating substance which adversely affected the central nervous
13 system, vision, hearing or other sensory or motor functioning to
14 such degree the person was impaired during the performance of ~~his~~
15 the person's job; or

16 11. Has violated any federal law relating to any controlled
17 substances, any provision of the Uniform Controlled Dangerous
18 Substances Act, Section 2-101 et seq. of this title, or any rules of
19 ~~the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~
20 Department of Public Safety.

21 B. In the event the ~~Director~~ Commissioner suspends or revokes a
22 registration granted under Section 2-303 of this title, all
23 controlled dangerous substances owned or possessed by the registrant
24 pursuant to such registration at the time of denial or suspension or

1 the effective date of the revocation order, as the case may be, may
2 in the discretion of the ~~Director~~ Commissioner be impounded and
3 preserved. No disposition may be made of substances impounded and
4 preserved until the time for taking an appeal has elapsed or until
5 all appeals have been concluded unless a court, upon application
6 therefor, orders the sale of perishable substances and the deposit
7 of the proceeds of the sale with the court. Upon a revocation order
8 becoming final, all such controlled dangerous substances shall be
9 forfeited to the state.

10 C. The Drug Enforcement Administration shall promptly be
11 notified of all orders suspending or revoking registration and all
12 forfeitures of controlled dangerous substances.

13 D. In lieu of or in addition to any other remedies available to
14 the ~~Director~~ Commissioner, if a finding is made that a registrant
15 has committed any act in violation of federal law relating to any
16 controlled substance, any provision of the Uniform Controlled
17 Dangerous Substances Act, Section 2-101 et seq. of this title, or
18 any rules of the ~~Oklahoma State Bureau of Narcotics and Dangerous~~
19 ~~Drugs Control~~ Department, the ~~Director~~ Commissioner is hereby
20 authorized to assess an administrative penalty not to exceed Two
21 Thousand Dollars (\$2,000.00) for each such act.

22 SECTION 20. AMENDATORY 63 O.S. 2001, Section 2-305, is
23 amended to read as follows:

24

1 Section 2-305. A. Before denying, suspending or revoking a
2 registration or refusing a renewal of registration, the ~~Director~~
3 Commissioner of Public Safety shall serve upon the applicant or
4 registrant an order to show cause why registration should not be
5 denied, revoked or suspended or why the renewal should not be
6 refused. The order to show cause shall contain a statement of the
7 basis therefor and shall call upon the applicant or registrant to
8 appear before the appropriate person or agency at a time and place
9 within thirty (30) days after the date of service of the order, but
10 in the case of a denial or renewal of registration the show cause
11 order shall be served within thirty (30) days before the expiration
12 of the registration. These proceedings shall be conducted in
13 accordance with the Administrative Procedures Act without regard to
14 any criminal prosecution or other proceeding. Proceedings to refuse
15 renewal of registration shall not abate the existing registration
16 which shall remain in effect pending the outcome of the
17 administrative hearing.

18 B. The ~~Director~~ Commissioner shall suspend, without an order to
19 show cause, any registration simultaneously with the institution of
20 proceedings under Section 2-304 of this title, if ~~he~~ the
21 Commissioner finds there is imminent danger to the public health or
22 safety which warrants this action. The suspension shall continue in
23 effect until the conclusion of the proceedings, including judicial
24

1 review thereof, unless sooner withdrawn by the ~~Director~~ Commissioner
2 or dissolved by a court of competent jurisdiction.

3 SECTION 21. AMENDATORY 63 O.S. 2001, Section 2-309, is
4 amended to read as follows:

5 Section 2-309. A. 1. Except for dosages medically required
6 for a period not to exceed forty-eight (48) hours which are
7 administered by or on direction of a practitioner, other than a
8 pharmacist, or medication dispensed directly by a practitioner,
9 other than a pharmacist, to an ultimate user, no controlled
10 dangerous substance included in Schedule II, which is a prescription
11 drug as determined under regulation promulgated by the Board of
12 Pharmacy, may be dispensed without the written prescription of a
13 practitioner; provided, that, in emergency situations, as prescribed
14 by the Board of Pharmacy by regulation, such drug may be dispensed
15 upon oral prescription reduced promptly to writing and filed by the
16 pharmacist in a manner to be prescribed by rules and regulations of
17 the ~~Director~~ Commissioner of Public Safety.

18 2. The transmission of written prescription by practitioner to
19 dispensing pharmacy by facsimile is permitted only under the
20 following conditions:

21 a. for Schedule II drugs, the original prescription must
22 be presented and verified against the facsimile at the
23 time the substances are actually dispensed, and the
24

1 original document must be properly annotated and
2 retained for filing, except:

- 3 (1) home infusion pharmacy may consider the facsimile
4 to be a "written prescription" as required by
5 this act and as required by Title 21 U.S.C.,
6 Section 829(a). The facsimile copy of the
7 prescription shall be retained as an original
8 prescription, and it must contain all the
9 information required by this act and 21 CFR,
10 Section 1306.05(a), including date issued, the
11 patient's full name and address, and the
12 practitioner's name, address, DEA registration
13 number, and signature. The exception to the
14 regulations for home infusion/IV therapy is
15 intended to facilitate the means by which home
16 infusion pharmacies obtain prescriptions for
17 patients requiring the frequently modified
18 parenteral controlled release administration of
19 narcotic substances, but does not extend to the
20 dispensing of oral dosage units of controlled
21 substances, and
- 22 (2) the same exception is granted to patients in Long
23 Term Care facilities (LTCF), which are filled by
24

1 and delivered to the facility by a dispensing
2 pharmacy, and

3 b. for drugs in Schedules III and IV, a facsimile copy of
4 a written, signed prescription transmitted directly by
5 the prescribing practitioner to the pharmacy can serve
6 as an original prescription.

7 3. Prescriptions shall be retained in conformity with the
8 requirements of this section and Section 2-307 of this title. No
9 prescription for a Schedule II substance may be refilled.

10 B. 1. Except for dosages medically required for a period not
11 to exceed forty-eight (48) hours which are administered by or on
12 direction of a practitioner, other than a pharmacist, or medication
13 dispensed directly by a practitioner, other than a pharmacist, to an
14 ultimate user, no controlled dangerous substance included in
15 Schedule III or IV, which is a prescription drug as determined under
16 regulation promulgated by the Board of Pharmacy, may be dispensed
17 without a written or oral prescription.

18 2. A written or oral prescription for a controlled dangerous
19 substance in Schedule III or IV may not be filled or refilled more
20 than six (6) months after the date thereof or be refilled more than
21 five times after the date of the prescription, unless renewed by the
22 practitioner.

1 C. No controlled dangerous substance included in Schedule V may
2 be distributed or dispensed other than for a legitimate medical or
3 scientific purpose.

4 D. Except for dosages medically required for a period not to
5 exceed forty-eight (48) hours which are administered by or on
6 direction of a practitioner, other than a pharmacist, or medication
7 dispensed directly by a practitioner, other than a pharmacist, to an
8 ultimate user, tincture opium camphorated, commonly known as
9 paregoric, may not be dispensed without a written or oral
10 prescription. The refilling of a prescription for paregoric shall
11 be unlawful unless permission is granted by the prescriber, either
12 written or oral.

13 E. Whenever it appears to the ~~Director~~ Commissioner that a drug
14 not considered to be a prescription drug under existing state law or
15 regulation of the Board of Pharmacy should be so considered because
16 of its abuse potential, ~~he~~ the Commissioner shall so advise the
17 Board of Pharmacy and furnish to him all available data relevant
18 thereto.

19 F. "Prescription", as used herein, means a written or oral
20 order by a practitioner to a pharmacist for a controlled dangerous
21 substance for a particular patient, which specifies the date of its
22 issue, and the full name and address of the patient; if the
23 controlled dangerous substance is prescribed for an animal, the
24 species of the animal; the name and quantity of the controlled

1 dangerous substance prescribed; the directions for use; the name and
2 address of the owner of the animal and, if written, the signature of
3 the practitioner.

4 G. No person shall solicit, dispense, receive or deliver any
5 controlled dangerous substance through the mail, unless the ultimate
6 user is personally known to the practitioner and circumstances
7 clearly indicate such method of delivery is in the best interest of
8 the health and welfare of the ultimate user.

9 SECTION 22. AMENDATORY 63 O.S. 2001, Section 2-309B, as
10 amended by Section 2, Chapter 300, O.S.L. 2004 (63 O.S. Supp. 2006,
11 Section 2-309B), is amended to read as follows:

12 Section 2-309B. For the purposes of the Anti-Drug Diversion
13 Act:

14 1. ~~"Bureau" means the Oklahoma State Bureau of Narcotics and~~
15 ~~Dangerous Drugs Control~~ "Department" means the Department of Public
16 Safety;

17 2. "Dispenser" means a person who distributes a Schedule II
18 controlled dangerous substance, but does not include a licensed
19 hospital pharmacy or a licensed nurse or medication aide who
20 administers such a substance at the direction of a licensed
21 physician;

22 3. "Dispenser's registration number" means the dispenser's
23 ~~Oklahoma Bureau of Narcotics and Dangerous Drugs Control~~ Department
24 of Public Safety registration number or, in the case of a

1 pharmacist, the National Association of Boards of Pharmacy number
2 for the pharmacy where the dispensation is made;

3 4. "Exception report" means an output of data indicating
4 Schedule II controlled dangerous substance dispensation which is
5 outside expected norms for a prescriber practicing a particular
6 specialty or field of health care, for a dispenser doing business in
7 a particular location, or for a recipient;

8 5. "Recipient's identification number" means the unique number
9 contained on a recipient's valid driver license, or valid
10 identification card issued pursuant to Section 6-105 of Title 47 of
11 the Oklahoma Statutes or similar statute of another state if the
12 recipient is not a resident of the State of Oklahoma, or, if the
13 recipient is less than eighteen (18) years old and has no such
14 identification, the unique number contained on the recipient's
15 parent's or guardian's valid driver license, or valid identification
16 card issued pursuant to Section 6-105 of Title 47 of the Oklahoma
17 Statutes or similar statute of another state if the parent or
18 guardian is not a resident of the State of Oklahoma, or, if the
19 controlled dangerous substance is obtained for an animal, the unique
20 number contained on the animal owner's valid driver license, or
21 valid identification card issued pursuant to Section 6-105 of Title
22 47 of the Oklahoma Statutes or similar statute of another state if
23 the owner is not a resident of the State of Oklahoma; and

24

1 6. "State" means any state, territory, or possession of the
2 United States, the District of Columbia, or foreign nation.

3 SECTION 23. AMENDATORY 63 O.S. 2001, Section 2-309C, as
4 last amended by Section 3, Chapter 128, O.S.L. 2005 (63 O.S. Supp.
5 2006, Section 2-309C), is amended to read as follows:

6 Section 2-309C. A. A dispenser of a Schedule II, III, IV or V
7 controlled dangerous substance, except Schedule V substances that
8 contain any detectable quantity of pseudoephedrine, its salts or
9 optical isomers, or salts of optical isomers shall transmit to a
10 central repository designated by the ~~Oklahoma Bureau of Narcotics~~
11 ~~and Dangerous Drugs Control~~ Department of Public Safety using the
12 American Society for Automation in Pharmacy's (ASAP)
13 Telecommunications Format for Controlled Substances version
14 designated in rules by the ~~Oklahoma Bureau of Narcotics and~~
15 ~~Dangerous Drugs Control~~ Department of Public Safety, the following
16 information for each dispensation:

- 17 1. Recipient's name, when feasible to submit;
- 18 2. Recipient's identification number;
- 19 3. National Drug Code number of the substance dispensed;
- 20 4. Date of the dispensation;
- 21 5. Quantity of the substance dispensed;
- 22 6. Prescriber's United States Drug Enforcement Agency
23 registration number; and
- 24 7. Dispenser's registration number.

1 B. The information required by this section shall be
2 transmitted:

3 1. On an electronic device which is compatible with the
4 receiving device of the central repository or by computer diskette,
5 magnetic tape, CD-ROM or in a format or other media designated
6 acceptable by the ~~Oklahoma Bureau of Narcotics and Dangerous Drugs~~
7 ~~Control~~ Department of Public Safety; and

8 2. Within thirty (30) days of the time that the substance is
9 dispensed.

10 C. Willful failure to transmit information as required by this
11 section shall be a misdemeanor punishable, upon conviction, by not
12 more than one (1) year in the county jail, or by a fine of not more
13 than One Thousand Dollars (\$1,000.00), or by both such imprisonment
14 and fine, or administrative action may be taken pursuant to Section
15 2-304 of this title.

16 D. The ~~Director of the Bureau~~ Commissioner of Public Safety
17 shall have the authority to allow paper submissions on the universal
18 claim form, if the dispenser has an appropriate hardship.

19 E. The ~~Oklahoma Bureau of Narcotics and Dangerous Drugs Control~~
20 Department of Public Safety is authorized, by any funds available to
21 it, to implement a real-time electronic logbook to monitor the sale
22 of Schedule V products containing any detectable quantity of
23 pseudoephedrine, its salts or optical isomers, or salts of optical
24 isomers. Dispensers of such pseudoephedrine products shall report

1 all such sales electronically pursuant to rules promulgated by the
2 ~~Oklahoma Bureau of Narcotics and Dangerous Drugs Control~~ Department
3 of Public Safety. The reporting requirements of this title do not
4 apply to any lawful sale of a Schedule V product containing any
5 detectable quantity of pseudoephedrine, its salts or optical
6 isomers, or salts of optical isomers, until such time that:

7 1. The ~~Oklahoma Bureau of Narcotics and Dangerous Drugs Control~~
8 Department of Public Safety implements a statewide real-time logbook
9 that authorizes purchases and records purchaser information
10 statewide; and

11 2. The ~~Oklahoma Bureau of Narcotics and Dangerous Drugs Control~~
12 Department of Public Safety adopts rules for the reporting of sales
13 of Schedule V product containing any detectable quantity of
14 pseudoephedrine, its salts or optical isomers, or salts of optical
15 isomers.

16 SECTION 24. AMENDATORY 63 O.S. 2001, Section 2-309D, as
17 last amended by Section 4, Chapter 128, O.S.L. 2005 (63 O.S. Supp.
18 2006, Section 2-309D), is amended to read as follows:

19 Section 2-309D. A. The information collected at the central
20 repository pursuant to the Anti-Drug Diversion Act shall be
21 confidential and shall not be open to the public. Access to the
22 information shall be limited to:

23 1. Peace officers certified pursuant to Section 3311 of Title
24 70 of the Oklahoma Statutes who are employed as investigative agents

1 of the ~~Oklahoma Bureau of Narcotics and Dangerous Drugs Control~~
2 Department of Public Safety pursuant to the Uniform Controlled
3 Dangerous Substances Act;

4 2. The United States Drug Enforcement Administration Diversion
5 Group Supervisor;

6 3. The executive director or chief investigator, as designated
7 by each board, of the following state boards:

8 a. Board of Podiatric Medical Examiners,

9 b. Board of Dentistry,

10 c. Board of Pharmacy,

11 d. State Board of Medical Licensure and Supervision,

12 e. State Board of Osteopathic Examiners, and

13 f. State Board of Veterinary Medical Examiners;

14 provided, however, that the executive director or chief investigator
15 of each of these boards shall be limited to access to information
16 relevant to licensees of the employing board of such executive
17 director or chief investigator; and

18 4. A multicounty grand jury properly convened pursuant to the
19 Multicounty Grand Jury Act, Sections 350 through 363 of Title 22 of
20 the Oklahoma Statutes.

21 B. This section shall not prevent the disclosure, at the
22 discretion of the ~~Director of the Oklahoma Bureau of Narcotics and~~
23 ~~Dangerous Drugs Control~~ Commissioner of Public Safety, of
24 investigative information to peace officers and investigative agents

1 of federal, state, county or municipal law enforcement agencies,
2 district attorneys and the Attorney General in furtherance of
3 criminal investigations or prosecutions within their respective
4 jurisdictions, and to registrants in furtherance of efforts to guard
5 against the diversion of controlled dangerous substances.

6 C. Any unauthorized disclosure of any information collected at
7 the central repository provided by the Anti-Drug Diversion Act shall
8 be a misdemeanor. Violation of the provisions of this section shall
9 be deemed willful neglect of duty and shall be grounds for removal
10 from office.

11 D. Notwithstanding the provisions of subsection B of this
12 section, registrants shall have no requirement or obligation to
13 access or check the information in the central repository prior to
14 dispensing or administering medications or as part of their
15 professional practices. Registrants shall not be liable to any
16 person for any claim of damages as a result of accessing or failing
17 to access the information in the central repository and no lawsuit
18 may be predicated thereon. Nothing herein shall be construed to
19 relieve a registrant from any duty to monitor and report the sales
20 of certain products pursuant to subsection E of Section 2-309C of
21 this title.

22 SECTION 25. AMENDATORY 63 O.S. 2001, Section 2-309E, as
23 amended by Section 5, Chapter 300, O.S.L. 2004 (63 O.S. Supp. 2006,
24 Section 2-309E), is amended to read as follows:

1 Section 2-309E. All access to information in the central
2 repository shall be controlled by and made through the ~~Oklahoma~~
3 ~~Bureau of Narcotics and Dangerous Drugs Control~~ Department of Public
4 Safety.

5 SECTION 26. AMENDATORY 63 O.S. 2001, Section 2-309F, as
6 amended by Section 6, Chapter 300, O.S.L. 2004 (63 O.S. Supp. 2006,
7 Section 2-309F), is amended to read as follows:

8 Section 2-309F. A. The central repository provided by the
9 Anti-Drug Diversion Act shall:

10 1. Be capable of providing the collected information in forms
11 required by the ~~Oklahoma Bureau of Narcotics and Dangerous Drugs~~
12 ~~Control~~ Department of Public Safety, including but not limited to,
13 dispensations by prescriber name or registration number, dispenser
14 name or registration number, recipient name or identification
15 number, type of substance, frequency, quantity, and location of
16 dispensation;

17 2. Provide the ~~Bureau~~ Department with continual, twenty-four-
18 hour per day, on-line access to the collected information;

19 3. Secure the collected information against access by
20 unauthorized persons;

21 4. Provide the ~~Bureau~~ Department, in a reasonable time, with
22 all collected information in a format readily usable by the ~~Bureau~~
23 Department, in the event the relationship between the state and
24 central repository is terminated; and

1 5. Not withhold access to the collected information for any
2 reason other than failure of the ~~Bureau~~ Department to timely pay
3 agreed fees and charges for use of the central repository.

4 B. The ~~Bureau~~ Department is authorized to enter into a contract
5 with a vendor to serve as the central repository provided for in the
6 Anti-Drug Diversion Act or to purchase the necessary equipment to
7 create the central repository within the ~~Bureau~~ Department.

8 SECTION 27. AMENDATORY 63 O.S. 2001, Section 2-309G, as
9 amended by Section 7, Chapter 300, O.S.L. 2004 (63 O.S. Supp. 2006,
10 Section 2-309G), is amended to read as follows:

11 Section 2-309G. The ~~Oklahoma Bureau of Narcotics and Dangerous~~
12 ~~Drugs Control~~ Department of Public Safety shall develop criteria for
13 the production of exception reports out of the information collected
14 at the central repository. In developing these criteria, the ~~Bureau~~
15 Department shall seek the counsel of the following entities:

- 16 1. Board of Podiatric Medical Examiners;
- 17 2. Board of Dentistry;
- 18 3. Board of Pharmacy;
- 19 4. State Board of Medical Licensure and Supervision;
- 20 5. State Board of Osteopathic Examiners;
- 21 6. State Board of Veterinary Medical Examiners;
- 22 7. Oklahoma Podiatric Medical Association;
- 23 8. Oklahoma Dental Association;
- 24 9. Oklahoma Pharmaceutical Association;

- 1 10. Oklahoma State Medical Association;
- 2 11. Oklahoma Osteopathic Association; and
- 3 12. Oklahoma Veterinary Medical Association.

4 SECTION 28. AMENDATORY 63 O.S. 2001, Section 2-309H, as
5 amended by Section 8, Chapter 300, O.S.L. 2004 (63 O.S. Supp. 2006,
6 Section 2-309H), is amended to read as follows:

7 Section 2-309H. ~~The Director of the Oklahoma Bureau of~~
8 ~~Narcotics and Dangerous Drugs Control~~ Commissioner of Public Safety
9 shall promulgate and adopt rules to implement and enforce the Anti-
10 Drug Diversion Act.

11 SECTION 29. AMENDATORY 63 O.S. 2001, Section 2-315, is
12 amended to read as follows:

13 Section 2-315. A. Except as otherwise provided by law, any
14 person required to obtain an annual registration pursuant to Section
15 2-302 of this title, or any group home, or residential care home as
16 defined by Section 1-820 of this title shall submit for destruction
17 all controlled dangerous substances which are out of date, which are
18 unwanted, unused or which are abandoned by their owner at their
19 facility due to death or other circumstances.

20 B. All controlled dangerous substances described in subsection
21 A of this section shall be submitted to the Oklahoma City laboratory
22 of the ~~Oklahoma State Bureau of Investigation~~ Department of Public
23 Safety, along with all required information on forms provided by the
24 ~~Oklahoma State Bureau of Investigation~~ Department, to the federal

1 Drug Enforcement Administration, to a duly registered reverse
2 distributor, or to the original registered supplier or their
3 registered agent. When any such substance is transported by private
4 contract or common carrier or United States Postal Service for the
5 purpose of destruction, the sender shall require a receipt from such
6 private contract or common carrier or United States Postal Service,
7 and such receipt shall be retained as a permanent record by the
8 sender.

9 C. Controlled dangerous substances submitted to the ~~Oklahoma~~
10 ~~State Bureau of Investigation~~ Department pursuant to the provisions
11 of this section shall be destroyed pursuant to the procedures
12 provided in subsection A of Section 2-508 of this title.

13 Controlled dangerous substances submitted to any distributors,
14 reverse distributors or their original registered suppliers pursuant
15 to the provisions of this section shall be destroyed by incineration
16 so as to make the substance absolutely unusable for human purposes.
17 An official record listing the property destroyed, the location of
18 destruction and disposal, and the name and title of the person
19 supervising the destruction and disposal shall be submitted to the
20 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~
21 Department and the federal Drug Enforcement Administration office
22 located nearest the destruction site.

23 D. The Office of the Chief Medical Examiner is hereby
24 authorized to perform on-site incineration of all controlled

1 dangerous substances which are obtained in the discharge of the
2 official duties of the Chief Medical Examiner. Any record relating
3 to destruction of a controlled dangerous substance shall be
4 maintained as required by the state or federal government and shall
5 be available for inspection by appropriate state or federal
6 government regulatory agencies.

7 E. This section shall constitute a part of the Uniform
8 Controlled Dangerous Substances Act.

9 SECTION 30. AMENDATORY 63 O.S. 2001, Section 2-322, is
10 amended to read as follows:

11 Section 2-322. A. No person or business shall possess, sell,
12 manufacture, transfer, or otherwise furnish any of the following
13 precursor substances without first having a permit or license issued
14 by the ~~Director of the Oklahoma State Bureau of Narcotics and~~
15 ~~Dangerous Drugs Control~~ Commissioner of Public Safety, except as
16 provided in Section 2-327 of this title:

- 17 1. D-Lysergic acid;
- 18 2. Ergotamine and its salts;
- 19 3. Ergonovine and its salts;
- 20 4. Methylamine;
- 21 5. Ethylamine;
- 22 6. Phenyl-2-Propanone;
- 23 7. Phenylacetic acid and its salts;

24

1 8. Ephedrine, its salts, optical isomers and salts of optical
2 isomers;

3 9. Norpseudoephedrine, its salts, optical isomers, and salts of
4 optical isomers;

5 10. Phenylpropanolamine, its salts, optical isomers and salts
6 of optical isomers;

7 11. Benzyl cyanide;

8 12. N-methylephedrine, its salts, optical isomers and salts of
9 optical isomers;

10 13. Pseudoephedrine, its salts, optical isomers and salts of
11 optical isomers;

12 14. Chloroephedrine, its salts, optical isomers and salts of
13 optical isomers;

14 15. Piperidine and its salts;

15 16. Pyrrolidine and its salts;

16 17. Propionic anhydride;

17 18. Isosafrole;

18 19. Safrole;

19 20. Piperonal; and

20 21. Red Phosphorus.

21 B. Upon completion of an application for a license pursuant to
22 Section 2-323 of this title, or a permit pursuant to Section 2-324
23 of this title, the ~~Director of the Oklahoma State Bureau of~~
24 ~~Narcotics and Dangerous Drugs Control~~ Commissioner shall either

1 grant or deny such license or permit. A denial of an application
2 for a permit or license shall be handled as provided by Section 2-
3 325 of this title.

4 SECTION 31. AMENDATORY 63 O.S. 2001, Section 2-323, is
5 amended to read as follows:

6 Section 2-323. A. A manufacturer, wholesaler, retailer, or
7 other person who sells, transfers, or otherwise furnishes any
8 precursor substance defined in Section ~~4~~ 2-322 of this ~~act~~ title
9 must first obtain a license annually from the ~~Director of the~~
10 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~
11 Commissioner of Public Safety.

12 B. The procedure for obtaining a license to sell, transfer,
13 manufacture, purchase for resale, or otherwise furnish a precursor
14 substance shall be as follows:

15 1. Obtain an application from the ~~Oklahoma State Bureau of~~
16 ~~Narcotics and Dangerous Drugs Control~~ Department of Public Safety;

17 2. Submit the application to the ~~Director of the Oklahoma State~~
18 ~~Bureau of Narcotics and Dangerous Drugs Control~~ Commissioner; and

19 3. Demonstrate a legitimate reason to sell, transfer, or
20 otherwise furnish precursor chemicals.

21 C. The content of the application for a license shall include,
22 but not be limited to, the following information:

23 1. Name of business;

24 2. Address of business other than a post office box number;

- 1 3. Phone number of business;
- 2 4. Names and addresses of business owners;
- 3 5. Location of storage facility;
- 4 6. Identification of precursor substances to be sold; and
- 5 7. Criminal history of applicant.

6 D. A licensee shall make an accurate and legible record of any
7 transaction of precursor substances and maintain such record
8 together with the following records for a period of at least two (2)
9 years:

- 10 1. Inventory on hand;
- 11 2. Purchase receipts;
- 12 3. Manufacturing records including the date and quantity of any
13 precursor substance manufactured, the quantity of precursor
14 substances used in manufacturing any other substance or product, and
15 the inventory on hand of precursor substances after the
16 manufacturing of any other substance or product;
- 17 4. Copies of the ~~Oklahoma Bureau of Narcotics~~ Department
18 purchase permits or written authorization waving the permit
19 requirement, as provided by subsection E of Section ~~6~~ 2-324 of this
20 ~~act~~ title; and

- 21 5. Records of substance disposal.

22 E. The license shall cost One Hundred Dollars (\$100.00)
23 annually and shall be renewable on July 1 of each year. The fee
24

1 shall be payable to the ~~Oklahoma State Bureau of~~ Narcotics Revolving
2 Fund.

3 SECTION 32. AMENDATORY 63 O.S. 2001, Section 2-324, is
4 amended to read as follows:

5 Section 2-324. A. Any person or business having a legitimate
6 need for using precursor substances defined in Section ~~4~~ 2-322 of
7 this ~~act~~ title, shall apply in person to the ~~Director of Oklahoma~~
8 ~~State Bureau of Narcotics and Dangerous Drugs Control~~ Commissioner
9 of Public Safety, or ~~his~~ a designee, for a permit to possess such
10 substances each time said substance is obtained.

11 B. The following must be submitted in person to the ~~Director of~~
12 ~~Oklahoma Bureau of Narcotics and Dangerous Drugs Control~~
13 Commissioner, or ~~his~~ a designee, to receive a permit for possession
14 of precursor substances:

15 1. A driver's license number or other personal identification
16 certificate number, date of birth, residential or mailing address,
17 other than a post office box number, and a driver's license or
18 personal identification card issued by the Department of Public
19 Safety which contains a photograph of the recipient. In the event
20 the applicant is a corporation, the information in this paragraph
21 shall be required of the person making application for the permit.
22 In addition, the person making application for the permit on behalf
23 of a corporation shall disclose his relationship to the corporation;

24

1 2. A complete description of how the substance is to be used;
2 and

3 3. The location where the substance is to be stored and used.

4 C. The permit shall consist of three parts, including:

5 1. A copy to be retained by the ~~Oklahoma State Bureau of~~
6 ~~Narcotics and Dangerous Drugs Control~~ Department of Public Safety;

7 2. A copy to be retained by the manufacturer, wholesaler,
8 retailer, or other person furnishing precursor substances; and

9 3. A copy to be attached to the container of the precursor
10 substances and to be kept with the substances at all times.

11 D. The permit shall cost Ten Dollars (\$10.00) and shall be
12 payable to the ~~Oklahoma State Bureau of Narcotics and Dangerous~~
13 ~~Drugs Control~~ Revolving Fund.

14 E. The ~~Director~~ Commissioner may authorize in writing any
15 person or business to submit a comprehensive monthly report in lieu
16 of the permit required by this section, if the ~~Director~~ Commissioner
17 determines that the recipient has established a record of
18 utilization of the substance solely for a lawful purpose.

19 SECTION 33. AMENDATORY 63 O.S. 2001, Section 2-325, is
20 amended to read as follows:

21 Section 2-325. A. A license or permit, obtained pursuant to
22 ~~Sections 5 or 6~~ Section 2-323 or 2-324 of this ~~act~~ title, shall be
23 denied, suspended, or revoked by the ~~Director~~ Commissioner of Public
24 Safety upon finding that the licensee or permit holder has:

1 1. Materially falsified any application filed pursuant to ~~this~~
2 ~~act~~ the Precursor Substances Act or required by ~~this act~~ the
3 Precursor Substances Act;

4 2. Been convicted of a misdemeanor relating to any precursor
5 substance defined in Section 4 3-322 of this ~~act~~ title or any felony
6 under the laws of this state or the United States; or

7 3. Failed to maintain effective controls against the diversion
8 of said precursors to unauthorized persons or entities.

9 B. Before denying, suspending, or revoking a license or permit,
10 the ~~Director~~ Commissioner shall cause to be served upon the
11 applicant, licensee, or permit holder an order to show cause why a
12 license or a permit should not be denied, suspended, or revoked.
13 The order to show cause shall contain a statement of the basis
14 therefor and shall call upon the applicant, licensee, or permit
15 holder to appear before the appropriate person or agency at the time
16 and place within thirty (30) days after the date of service of the
17 order. The proceedings shall be conducted in accordance with the
18 Administrative Procedures Act without regard to any criminal
19 prosecution or other proceeding.

20 C. The ~~Director~~ Commissioner shall suspend, without an order to
21 show cause, any license or permit simultaneously with the
22 institution of proceedings described in subsection B of this section
23 if ~~he~~ the Commissioner finds there is imminent danger to the public
24 health or safety which warrants this action. The suspension shall

1 continue in effect until the conclusion of the proceedings,
2 including judicial review thereof, unless withdrawn by the ~~Director~~
3 Commissioner or dissolved by a court of competent jurisdiction.

4 SECTION 34. AMENDATORY 63 O.S. 2001, Section 2-326, is
5 amended to read as follows:

6 Section 2-326. A. Any person or business, licensed or
7 permitted, who discovers a loss or theft of, or disposes of a
8 substance listed in Section ~~4~~ 2-322 of this ~~act~~ title shall:

9 1. Submit a report of the loss, theft, or disposal to the
10 ~~Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs~~
11 Control Commissioner of Public Safety no later than the third
12 business day after the date the manufacturer, wholesaler, retailer,
13 or other person discovers the loss or theft, or after the actual
14 disposal; and

15 2. Include the amount of loss, theft, or disposal in the
16 report. Any disposal of precursor substances must be done in
17 accordance with the rules and regulations of the United States
18 Environmental Protection Administration and shall be performed at
19 the expense of the permit or license holder.

20 B. A manufacturer, wholesaler, retailer, or other person who
21 sells, transfers, possesses, uses, or otherwise furnishes any
22 precursor substance shall:

23 1. Maintain records as specified in Section ~~5~~ 2-323 of this ~~act~~
24 title;

1 2. Permit agents of the ~~Oklahoma State Bureau of Narcotics and~~
2 ~~Dangerous Drugs Control~~ Department to conduct on-site audits,
3 inspect inventory on hand and inspect all records made in accordance
4 with ~~this act~~ the Precursor Substances Act at any reasonable time;
5 and

6 3. Cooperate with the audit, and the full and complete
7 inspection or copying of any records.

8 SECTION 35. AMENDATORY 63 O.S. 2001, Section 2-329, is
9 amended to read as follows:

10 Section 2-329. A. In addition to any fine or imprisonment
11 imposed under Section ~~10~~ 2-328 of this ~~act~~ title, the following drug
12 cleanup fine shall be imposed:

13 1. Ten Thousand Dollars (\$10,000.00) for violations described
14 in subsection A of Section ~~10~~ 2-328 of this ~~act~~ title; and

15 2. One Hundred Thousand Dollars (\$100,000.00) for violations
16 described in subsections C, D or E of Section ~~10~~ 2-328 of this ~~act~~
17 title.

18 B. All fines collected under this section shall be transferred
19 to the ~~OSBI~~ Revolving Fund, established pursuant to Section 150.19a
20 of Title 74 of the Oklahoma Statutes.

21 SECTION 36. AMENDATORY 63 O.S. 2001, Section 2-330, is
22 amended to read as follows:

23 Section 2-330. A. Every law enforcement agency in this state
24 shall notify the ~~Oklahoma State Bureau of Narcotics and Dangerous~~

1 ~~Drugs Control~~ Department of Public Safety within ten (10) days of
2 any officer of such agency seizing:

3 1. Any precursor chemical, as defined in the Precursor
4 Substances Act, used or allegedly used, in full or in part, to
5 manufacture any controlled substance; and

6 2. Any drug paraphernalia relating to an illegal laboratory,
7 including but not limited to any glassware, instruments, devices,
8 utensils or other objects or equipment used or allegedly used, in
9 full or in part, to manufacture any controlled substance.

10 B. The ~~Bureau~~ Department may promulgate rules and forms to
11 facilitate the required notification pursuant to this section.
12 Until rules and forms are promulgated by the Department, the rules
13 and forms promulgated by the Oklahoma State Bureau of Narcotics and
14 Dangerous Drugs Control shall remain in effect.

15 SECTION 37. AMENDATORY 63 O.S. 2001, Section 2-331, is
16 amended to read as follows:

17 Section 2-331. It shall be the duty of any peace officer of the
18 State of Oklahoma who seizes any glassware, instruments, devices,
19 utensils or precursor chemicals, as defined by Section 2-322 of
20 ~~Title 63 of the Oklahoma Statutes~~ this title, which have been used
21 or were intended to be used in the illicit manufacturing of any
22 controlled dangerous substance, in full or in part, to make notice
23 of the seizure in writing to the ~~Oklahoma Bureau of Narcotics and~~
24 ~~Dangerous Drugs Control~~ Department of Public Safety.

1 SECTION 38. AMENDATORY Section 1, Chapter 288, O.S.L.
2 2002, as last amended by Section 4, Chapter 59, O.S.L. 2004 (63 O.S.
3 Supp. 2006, Section 2-332), is amended to read as follows:

4 Section 2-332. A. It shall be unlawful for a person to
5 knowingly and unlawfully possess a drug product containing
6 ephedrine, pseudoephedrine or phenylpropanolamine, or their salts,
7 isomers or salts of isomers with intent to use the product as a
8 precursor to manufacture methamphetamine or another controlled
9 substance.

10 B. Except as provided in this subsection, possession of a drug
11 product containing more than nine (9) grams of ephedrine,
12 pseudoephedrine or phenylpropanolamine, or their salts, isomers or
13 salts of isomers shall constitute a rebuttable presumption of the
14 intent to use the product as a precursor to methamphetamine or
15 another controlled substance. The rebuttable presumption
16 established by this subsection shall not apply to the following
17 persons who are lawfully possessing drug products in the course of
18 legitimate business:

- 19 1. A retail distributor of drug products or wholesaler;
- 20 2. A wholesale drug distributor, or its agents, licensed by the
21 Board of Pharmacy;
- 22 3. A manufacturer of drug products, or its agents, licensed by
23 the Board of Pharmacy;
- 24 4. A pharmacist licensed by the Board of Pharmacy; and

1 5. A licensed healthcare professional possessing the drug
2 products in the course of carrying out his profession.

3 C. A violation of this section shall be a felony punishable as
4 provided for in subsection G of Section 2-401 of this title.

5 D. Any wholesaler, manufacturer, or distributor of drug
6 products containing pseudoephedrine or phenylpropanolamine, or their
7 salts, isomers, or salts of isomers shall obtain a registration
8 annually from the ~~Oklahoma State Bureau of Narcotics and Dangerous~~
9 ~~Drugs Control~~ Department of Public Safety. Any such wholesaler,
10 manufacturer, or distributor shall keep complete records of all
11 transactions involving such drug products including the names of all
12 parties involved in the transaction and amount of the drug products
13 involved. The records shall be kept readily retrievable and
14 separate from all other invoices or records of transactions not
15 involving such drug products, and shall be maintained for not less
16 than three (3) years.

17 E. As used in this section:

18 1. "Manufacturer" means any person within this state who
19 produces, compounds, packages, or in any manner initially prepares
20 for sale or use any drug product described in subsection D of this
21 section, or any such person in another state if they cause the
22 products to be compounded, packaged, or transported into this state;

23 2. "Wholesaler" means any person within this state or another
24 state, other than a manufacturer, who sells, transfers, or in any

1 manner furnishes a drug product described in subsection A of this
2 section to any other person in this state for the purpose of being
3 resold;

4 3. "Distributor" means any person within this state or another
5 state, other than a manufacturer or wholesaler, who sells, delivers,
6 transfers, or in any manner furnishes a drug product described in
7 subsection A of this section to any person who is not the ultimate
8 user or consumer of the product; and

9 4. "Readily retrievable" means available for inspection without
10 prior notice at the registration address if that address is within
11 the State of Oklahoma. If the registration address is in a state
12 other than Oklahoma, it means records must be furnished within three
13 (3) working days by courier, facsimile, mail or electronic mail.

14 F. Any substances possessed without a registration as provided
15 in subsection D of this section shall be subject to forfeiture upon
16 conviction for a violation of this section.

17 G. In addition to any administrative penalties provided by law,
18 any violation of this section shall be a misdemeanor, punishable
19 upon conviction by a fine only in an amount not more than Ten
20 Thousand Dollars (\$10,000.00).

21 SECTION 39. AMENDATORY Section 2, Chapter 288, O.S.L.
22 2002, as amended by Section 4, Chapter 133, O.S.L. 2003 (63 O.S.
23 Supp. 2006, Section 2-333), is amended to read as follows:

24

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

9 B. A violation of this section shall be a felony punishable by
10 imprisonment in the ~~State Penitentiary~~ custody of the Department of
11 Corrections for a term of not more than ten (10) years.

12 C. Any person who sells, transfers, distributes, dispenses, or
13 in any manner furnishes any product containing pseudoephedrine or
14 phenylpropanolamine, or their salts, isomers, or salts of isomers in
15 a negligent manner, with knowledge or reason to know that the
16 product will be used as a precursor to manufacture methamphetamine
17 or any other illegal controlled substance, or with reckless
18 disregard as to how the product will be used, shall be liable for
19 all damages, whether directly or indirectly caused by the sale,
20 transfer, distribution, dispensation, or furnishing.

21 1. Such damages may include, but are not limited to, any and
22 all costs of detecting, investigating, and cleaning up or
23 remediating clandestine or other unlawfully operated or maintained
24 laboratories where controlled dangerous substances are manufactured,

1 any and all costs of prosecuting criminal cases arising from such
2 manufacture, and any and all consequential and punitive damages
3 otherwise allowed by law.

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

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

22 SECTION 40. AMENDATORY 63 O.S. 2001, Section 2-503, as
23 amended by Section 2, Chapter 537, O.S.L. 2004 (63 O.S. Supp. 2006,
24 Section 2-503), is amended to read as follows:

1 Section 2-503. A. The following shall be subject to
2 forfeiture:

3 1. All controlled dangerous substances which have been
4 manufactured, distributed, dispensed, acquired, concealed or
5 possessed in violation of the Uniform Controlled Dangerous
6 Substances Act;

7 2. All raw materials, products and equipment of any kind and
8 all drug paraphernalia as defined by the Uniform Controlled
9 Dangerous Substances Act, which are used, or intended for use, in
10 manufacturing, compounding, processing, delivering, importing or
11 exporting, injecting, ingesting, inhaling, or otherwise introducing
12 into the human body any controlled dangerous substance in violation
13 of the provisions of the Uniform Controlled Dangerous Substances
14 Act;

15 3. All property which is used, or intended for use, as a
16 container for property described in paragraphs 1 and 2 of this
17 subsection;

18 4. All conveyances, including aircraft, vehicles, vessels, or
19 farm implements which are used to transport, conceal, or cultivate
20 for the purpose of distribution as defined in the Uniform Controlled
21 Dangerous Substances Act, or which are used in any manner to
22 facilitate the transportation or cultivation for the purpose of sale
23 or receipt of property described in paragraphs 1 or 2 of this
24 subsection or when the property described in paragraphs 1 or 2 of

1 this subsection is unlawfully possessed by an occupant thereof,
2 except that:

3 a. no conveyance used by a person as a common carrier in
4 the transaction of business as a common carrier shall
5 be forfeited under the provisions of the Uniform
6 Controlled Dangerous Substances Act unless it shall
7 appear that the owner or other person in charge of
8 such conveyance was a consenting party or privy to a
9 violation of the Uniform Controlled Dangerous
10 Substances Act, and

11 b. no conveyance shall be forfeited under the provisions
12 of this section by reason of any act or omission
13 established by the owner thereof to have been
14 committed or omitted without the knowledge or consent
15 of such owner, and if the act is committed by any
16 person other than such owner the owner shall establish
17 further that the conveyance was unlawfully in the
18 possession of a person other than the owner in
19 violation of the criminal laws of the United States,
20 or of any state;

21 5. All books, records and research, including formulas,
22 microfilm, tapes and data which are used in violation of the Uniform
23 Controlled Dangerous Substances Act;

24

1 6. All things of value furnished, or intended to be furnished,
2 in exchange for a controlled dangerous substance in violation of the
3 Uniform Controlled Dangerous Substances Act, all proceeds traceable
4 to such an exchange, and all monies, negotiable instruments, and
5 securities used, or intended to be used, to facilitate any violation
6 of the Uniform Controlled Dangerous Substances Act;

7 7. All ~~moneys~~ monies, coin and currency found in close
8 proximity to any amount of forfeitable substances, to forfeitable
9 drug manufacturing or distribution paraphernalia or to forfeitable
10 records of the importation, manufacture or distribution of
11 substances, which are rebuttably presumed to be forfeitable under
12 the Uniform Controlled Dangerous Substances Act. The burden of
13 proof is upon claimants of the property to rebut this presumption;

14 8. All real property, including any right, title, and interest
15 in the whole of any lot or tract of land and any appurtenance or
16 improvement thereto, which is used, or intended to be used, in any
17 manner or part, to commit, or to facilitate the commission of, a
18 violation of the Uniform Controlled Dangerous Substances Act which
19 is punishable by imprisonment for more than one (1) year, except
20 that no property right, title or interest shall be forfeited
21 pursuant to this paragraph, by reason of any act or omission
22 established by the owner thereof to have been committed or omitted
23 without the knowledge or consent of that owner; and

24

1 9. All weapons possessed, used or available for use in any
2 manner to facilitate a violation of the Uniform Controlled Dangerous
3 Substances Act.

4 B. Any property or thing of value of a person is subject to
5 forfeiture if it is established by a preponderance of the evidence
6 that such property or thing of value was acquired by such person
7 during the period of the violation of the Uniform Controlled
8 Dangerous Substances Act or within a reasonable time after such
9 period and there was no likely source for such property or thing of
10 value other than the violation of the Uniform Controlled Dangerous
11 Substances Act.

12 C. Any property or thing of value of a person is subject to
13 forfeiture if it is established by a preponderance of the evidence
14 that the person has not paid all or part of a fine imposed pursuant
15 to the provisions of Section 2-415 of this title.

16 D. All items forfeited in this section shall be forfeited under
17 the procedures established in Section 2-506 of this title. Whenever
18 any item is forfeited pursuant to this section except for items
19 confiscated by ~~the Oklahoma State Bureau of Narcotics and Dangerous~~
20 ~~Drugs Control, the Department of Public Safety, the Oklahoma State~~
21 ~~Bureau of Investigation,~~ the Alcoholic Beverage Laws Enforcement
22 Commission, the Department of Corrections, or the Office of the
23 Attorney General, the district court of the district shall order
24 that such item, money, or monies derived from the sale of such item

1 be deposited by the state, county or city law enforcement agency
2 which seized the item in the revolving fund provided for in Section
3 2-506 of this title; provided, such item, money or monies derived
4 from the sale of such item forfeited due to nonpayment of a fine
5 imposed pursuant to the provisions of Section 2-415 of this title
6 shall be apportioned as provided in Section 2-416 of this title.
7 Items, money or monies seized pursuant to subsections A and B of
8 this section shall not be applied or considered toward satisfaction
9 of the fine imposed by Section 2-415 of this title. All raw
10 materials used or intended to be used by persons to unlawfully
11 manufacture or attempt to manufacture any controlled dangerous
12 substance in violation of the Uniform Controlled Dangerous
13 Substances Act shall be summarily forfeited pursuant to the
14 provisions of Section 2-505 of this title.

15 E. All property taken or detained under this section by ~~the~~
16 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the~~
17 ~~Department of Public Safety, the Oklahoma State Bureau of~~
18 ~~Investigation,~~ the Alcoholic Beverage Laws Enforcement Commission,
19 the Department of Corrections, or the Office of the Attorney
20 General, shall not be repleviable, but shall remain in the custody
21 of the ~~Bureaus, Departments,~~ Commission, Department or office,
22 respectively, subject only to the orders and decrees of a court of
23 competent jurisdiction. ~~The Director of the Oklahoma State Bureau~~
24 ~~of Narcotics and Dangerous Drugs Control, the Commissioner of Public~~

1 ~~Safety, the Director of the Oklahoma State Bureau of Investigation,~~
2 ~~the Director of the Alcoholic Beverage Laws Enforcement Commission,~~
3 ~~the Director of the Department of Corrections, and the Attorney~~
4 General shall follow the procedures outlined in Section 2-506 of
5 this title dealing with notification of seizure, intent of
6 forfeiture, final disposition procedures, and release to innocent
7 claimants with regard to all property included in this section
8 ~~detained by the Department of Public Safety, the Oklahoma State~~
9 ~~Bureau of Investigation,~~ the Alcoholic Beverage Laws Enforcement
10 Commission, the Department of Corrections, or the Office of the
11 Attorney General. Property taken or detained by ~~the Oklahoma State~~
12 ~~Bureau of Narcotics and Dangerous Drugs Control, the Department of~~
13 ~~Public Safety, the Oklahoma State Bureau of Investigation,~~ the
14 Alcoholic Beverage Laws Enforcement Commission, the Department of
15 Corrections, or the Office of the Attorney General shall be disposed
16 of or sold pursuant to the provisions of Section 2-508 of this
17 title. Any money, coins, and currency, taken or detained pursuant
18 to this section may be deposited in an interest bearing account by
19 or at the direction of the State Treasurer if the seizing agency
20 determines the currency is not to be held as evidence. All interest
21 earned on such monies shall be returned to the claimant or forfeited
22 with the money, coins, and currency which was taken or detained as
23 provided by law.

24

1 F. The proceeds of any forfeiture of items seized by the
2 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~
3 Department of Public Safety shall be distributed as follows:

4 1. To the bona fide or innocent purchaser, conditional sales
5 vendor or mortgagee of the property, if any, up to the amount of his
6 interest in the property, when the court declaring a forfeiture
7 orders a distribution to such person; and

8 2. The balance to the ~~Oklahoma State Bureau of Narcotics'~~
9 ~~revolving fund~~ Narcotics Revolving Fund or the ~~Bureau's~~ Department's
10 agency special account established pursuant to Section 7.2 of Title
11 62 of the Oklahoma Statutes, provided the ~~Bureau~~ Department may
12 enter into agreements with municipal, county, state or federal law
13 enforcement agencies, assisting in the forfeiture or underlying
14 criminal investigation, to return to such an agency a percentage of
15 said proceeds.

16 The ~~Bureau~~ Department may expend up to Nine Hundred Thousand
17 Dollars (\$900,000.00) of the forfeited funds within a fiscal year
18 without prior approval of the Legislature. Documentation of such
19 expenditures shall be forwarded to the Governor, Speaker of the
20 House of Representatives and the President Pro Tempore of the Senate
21 on a quarterly basis. Any additional expenditures of forfeited
22 funds shall be pre-approved by the annual appropriations process or
23 the Contingency Review Board.

1 G. Any agency that acquires seized or forfeited property or
2 money shall maintain a true and accurate inventory and record of all
3 such property seized pursuant to this section.

4 SECTION 41. AMENDATORY 63 O.S. 2001, Section 2-505, is
5 amended to read as follows:

6 Section 2-505. A. All controlled substances in Schedule I of
7 Section 2-101 et seq. of this title and all controlled substances in
8 Schedules II, III, IV, and V that are not in properly labeled
9 containers in accordance with this act that are possessed,
10 transferred, sold, or offered for sale in violation of this act are
11 deemed contraband and shall be seized and summarily forfeited.

12 B. All hazardous materials and all property contaminated with
13 hazardous materials described in paragraph 2 of subsection A of
14 Section 2-503 of this title, used or intended to be used by persons
15 to unlawfully manufacture or attempt to manufacture any controlled
16 dangerous substance, shall be summarily forfeited to the state and
17 submitted to the ~~Oklahoma State Bureau of Investigation~~ Department
18 of Public Safety for prompt destruction in accordance with state and
19 federal laws.

20 C. Species of plants from which controlled substances in
21 Schedules I or II of the Uniform Controlled Dangerous Substances
22 Act, ~~Section 2-101 et seq. of this title,~~ may be derived which have
23 been planted or cultivated in violation of the Uniform Controlled
24 Dangerous Substances Act, or of which the owners or cultivators are

1 unknown, or which are wild growths, may be seized by peace officers,
2 summarily forfeited, and, in lieu of the eradication procedures
3 contained in Section 2-509 of this title, promptly cut and burned
4 where seized or destroyed by applications of herbicides approved for
5 such purpose by the Oklahoma Department of Agriculture, Food, and
6 Forestry. Spraying shall be limited to the chemical glyphosate and
7 shall be applied directly to the plants by hand spraying from
8 portable ground-based spray units or by using equipment affixed to
9 rotary-wing aircraft. Any application of glyphosate using rotary-
10 wing aircraft shall employ equipment and methods capable of spot
11 spraying and under no circumstances shall broadcast or other mass
12 spraying methods be employed. The ~~Oklahoma Bureau of Narcotics~~
13 Department of Public Safety shall cooperate with the Oklahoma
14 Department of Agriculture, Food, and Forestry to ensure that persons
15 spraying the plants are trained in its appropriate use and any
16 safety and protection issues.

17 SECTION 42. AMENDATORY 63 O.S. 2001, Section 2-506, as
18 last amended by Section 3, Chapter 537, O.S.L. 2004 (63 O.S. Supp.
19 2006, Section 2-506), is amended to read as follows:

20 Section 2-506. A. Any peace officer of this state shall seize
21 the following property:

22 1. Any property described in subsection A of Section 2-503 of
23 this title. Such property shall be held as evidence until a
24 forfeiture has been declared or release ordered, except for property

1 described in paragraphs 1, 2 and 3 of subsection A of Section 2-503
2 of this title, or in the case of money, coins, and currency,
3 deposited as provided in subsection E of Section 2-503 of this
4 title;

5 2. Any property described in subsection B of Section 2-503 of
6 this title; or

7 3. Any property described in subsection C of Section 2-503 of
8 this title.

9 B. Notice of seizure and intended forfeiture proceeding shall
10 be filed in the office of the clerk of the district court for the
11 county wherein such property is seized and shall be given all owners
12 and parties in interest.

13 C. Notice shall be given by the agency seeking forfeiture
14 according to one of the following methods:

15 1. Upon each owner or party in interest whose right, title or
16 interest is of record in the Oklahoma Tax Commission, by mailing a
17 copy of the notice by certified mail to the address as given upon
18 the records of the Tax Commission;

19 2. Upon each owner or party in interest whose name and address
20 is known to the attorney in the office of the agency prosecuting the
21 action to recover unpaid fines, by mailing a copy of the notice by
22 registered mail to the last-known address; or

23 3. Upon all other owners or interested parties, whose addresses
24 are unknown, but who are believed to have an interest in the

1 property, by one publication in a newspaper of general circulation
2 in the county where the seizure was made.

3 D. Within forty-five (45) days after the mailing or publication
4 of the notice, the owner of the property and any other party in
5 interest or claimant may file a verified answer and claim to the
6 property described in the notice of seizure and of the intended
7 forfeiture proceeding.

8 E. If at the end of forty-five (45) days after the notice has
9 been mailed or published there is no verified answer on file, the
10 court shall hear evidence upon the fact of the unlawful use and
11 shall order the property forfeited to the state, if such fact is
12 proved.

13 F. If a verified answer is filed, the forfeiture proceeding
14 shall be set for hearing.

15 G. At a hearing in a proceeding against property described in
16 paragraphs 3 through 9 of subsection A or subsections B and C of
17 Section 2-503 of this title, the requirements set forth in said
18 paragraph or subsection, respectively, shall be satisfied by the
19 state by a preponderance of the evidence.

20 H. The claimant of any right, title, or interest in the
21 property may prove a lien, mortgage, or conditional sales contract
22 to be a bona fide or innocent ownership interest and that such
23 right, title, or interest was created without any knowledge or
24

1 reason to believe that the property was being, or was to be, used
2 for the purpose charged.

3 I. In the event of such proof, the court shall order the
4 property released to the bona fide or innocent owner, lien holder,
5 mortgagee or vendor if the amount due him is equal to, or in excess
6 of, the value of the property as of the date of the seizure, it
7 being the intention of this section to forfeit only the right, title
8 or interest of the purchaser.

9 J. If the amount due to such person is less than the value of
10 the property, or if no bona fide claim is established, the property
11 shall be forfeited to the state and sold under judgment of the
12 court, as on sale upon execution, and as provided for in Section 2-
13 508 of this title, except as otherwise provided for in Section 2-503
14 of this title.

15 K. Property taken or detained under this section shall not be
16 repleviable, but shall be deemed to be in the custody of the office
17 of the district attorney of the county wherein the property was
18 seized, subject only to the orders and decrees of the court or the
19 official having jurisdiction thereof; said official shall maintain a
20 true and accurate inventory and record of all such property seized
21 under the provisions of this section. The provisions of this
22 subsection shall not apply to property taken or detained by ~~the~~
23 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~ the
24 Department of Public Safety, ~~the Oklahoma State Bureau of~~

1 ~~Investigation~~, the Alcoholic Beverage Laws Enforcement Commission,
2 the Department of Corrections or the Office of the Attorney General.
3 Property taken or detained by ~~the Oklahoma State Bureau of Narcotics~~
4 ~~and Dangerous Drugs Control~~, the Department of Public Safety, ~~the~~
5 ~~Oklahoma State Bureau of Investigation~~, the Alcoholic Beverage Laws
6 Enforcement Commission, the Department of Corrections or the Office
7 of the Attorney General shall be subject to the provisions of
8 subsections E and F of Section 2-503 of this title.

9 L. The proceeds of the sale of any property not taken or
10 detained by ~~the Oklahoma State Bureau of Narcotics and Dangerous~~
11 ~~Drugs Control~~, the Department of Public Safety, ~~the Oklahoma State~~
12 ~~Bureau of Investigation~~, the Alcoholic Beverage Laws Enforcement
13 Commission, the Department of Corrections or the Office of the
14 Attorney General shall be distributed as follows, in the order
15 indicated:

16 1. To the bona fide or innocent purchaser, conditional sales
17 vendor or mortgagee of the property, if any, up to the amount of his
18 interest in the property, when the court declaring the forfeiture
19 orders a distribution to such person;

20 2. To the payment of the actual expenses of preserving the
21 property and legitimate costs related to the civil forfeiture
22 proceedings; and

23 3. The balance to a revolving fund in the office of the county
24 treasurer of the county wherein the property was seized, said fund

1 to be used as a revolving fund solely for enforcement of controlled
2 dangerous substances laws, drug abuse prevention and drug abuse
3 education, and maintained by the district attorney in his or her
4 discretion for those purposes with a yearly accounting to the board
5 of county commissioners in whose county the fund is established and
6 to the District Attorneys Council; provided, one hundred percent
7 (100%) of the balance of the proceeds of such sale of property
8 forfeited due to nonpayment of a fine imposed pursuant to the
9 provisions of Section 2-415 of this title shall be apportioned as
10 provided in Section 2-416 of this title. The revolving fund shall
11 be audited by the State Auditor and Inspector at least every two (2)
12 years in the manner provided in Section 171 of Title 19 of the
13 Oklahoma Statutes. Said audit shall include, but not be limited to,
14 a compliance audit. A district attorney may enter into agreements
15 with municipal, county or state agencies to return to such an agency
16 a percentage of proceeds of the sale of any property seized by the
17 agency and forfeited under the provisions of this section. The
18 District Attorneys Council shall adopt guidelines which ensure that
19 such agencies receive a reasonable percentage of such proceeds,
20 considering the relative contribution of each agency to the drug
21 enforcement and prosecution operations relating to the seizure. In
22 formulating said guidelines, the District Attorneys Council shall
23 examine federal guidelines on asset distribution and use said
24 guidelines as a basis for establishing guidelines for this state.

1 The Attorney General is hereby authorized to mediate disputes
2 between district attorneys and such agencies concerning the
3 application of said guidelines in particular instances. Any agency
4 that receives proceeds from an asset distribution shall maintain a
5 true and accurate record of all such assets.

6 M. Whenever any vehicle, airplane or vessel is forfeited under
7 the Uniform Controlled Dangerous Substances Act, the district court
8 of jurisdiction may order that the vehicle, airplane or vessel
9 seized may be retained by the state, county or city law enforcement
10 agency which seized the vehicle, airplane or vessel for its official
11 use.

12 N. If the court finds that the state failed to satisfy the
13 required showing provided for in subsection G of this section, the
14 court shall order the property released to the owner or owners.

15 O. Except as provided for in subsection Q of this section, a
16 bona fide or innocent owner, lien holder, mortgagee or vendor that
17 recovers property pursuant to this section shall not be liable for
18 storage fees.

19 P. Except as provided for in subsection Q of this section,
20 storage fees shall be paid by the agency which is processing the
21 seizure and forfeiture from funds generated by seizure and
22 forfeiture actions.

23 Q. The bona fide or innocent owner, lien holder, mortgagee or
24 vendor shall reclaim subject seized property within thirty (30) days

1 of written notice from the seizing agency. If such person fails to
2 reclaim the property within the thirty-day time period, then storage
3 fees may be assessed against their secured interest.

4 R. 1. At any hearing held relevant to this section, a report
5 of the findings of the laboratory of the ~~Oklahoma State Bureau of~~
6 ~~Investigation~~ Department of Public Safety, the medical examiner's
7 report of investigation or autopsy report, or a laboratory report
8 from a forensic laboratory operated by the State of Oklahoma or any
9 political subdivision thereof, which has been made available to the
10 accused by the office of the district attorney or other party to the
11 forfeiture at least five (5) days prior to the hearing, with
12 reference to all or part of the evidence submitted, when certified
13 as correct by the persons making the report shall be received as
14 evidence of the facts and findings stated, if relevant and otherwise
15 admissible in evidence. If such report is deemed relevant by the
16 forfeiture applicant or the respondent, the court shall admit such
17 report without the testimony of the person making the report, unless
18 the court, pursuant to this subsection, orders such person to
19 appear.

20 2. When any alleged controlled dangerous substance has been
21 submitted to the laboratory of the ~~OSBI~~ Department of Public Safety
22 for analysis, and such analysis shows that the submitted material is
23 a controlled dangerous substance, the distribution of which
24 constitutes a felony under the laws of this state, no portion of

1 such substance shall be released to any other person or laboratory
2 except to the criminal justice agency originally submitting the
3 substance to the ~~OSBI~~ Department of Public Safety for analysis,
4 absent an order of a district court. The defendant shall
5 additionally be required to submit to the court a procedure for
6 transfer and analysis of the subject material to ensure the
7 integrity of the sample and to prevent the material from being used
8 in any illegal manner.

9 3. The court, upon motion of either party, shall order the
10 attendance of any person preparing a report submitted as evidence in
11 the hearing when it appears there is a substantial likelihood that
12 material evidence not contained in said report may be produced by
13 the testimony of any person having prepared a report. The hearing
14 shall be held and, if sustained, an order issued not less than five
15 (5) days prior to the time when the testimony shall be required.

16 4. If within five (5) days prior to the hearing or during a
17 hearing, a motion is made pursuant to this section requiring a
18 person having prepared a report to testify, the court may hear a
19 report or other evidence but shall continue the hearing until such
20 time notice of the motion and hearing is given to the person making
21 the report, the motion is heard, and, if sustained, the testimony
22 ordered can be given.

23

24

1 SECTION 43. AMENDATORY 63 O.S. 2001, Section 2-508, as
2 last amended by Section 16, Chapter 168, O.S.L. 2004 (63 O.S. Supp.
3 2006, Section 2-508), is amended to read as follows:

4 Section 2-508. A. Except as otherwise provided, all property
5 described in paragraphs 1 and 2 of subsection A of Section 2-503 of
6 this title which is seized or surrendered pursuant to the provisions
7 of the Uniform Controlled Dangerous Substances Act shall be
8 destroyed. The destruction shall be done by or at the direction of
9 the ~~Oklahoma State Bureau of Investigation~~ Department of Public
10 Safety, who shall have the discretion prior to destruction to
11 preserve samples of the substance for testing. In any county with a
12 population of four hundred thousand (400,000) or more according to
13 the latest Federal Decennial Census, there shall be a located site,
14 approved by the ~~Oklahoma State Bureau of Investigation~~ Department,
15 for the destruction of the property. Any such property submitted to
16 the ~~Oklahoma State Bureau of Investigation~~ Department which it deems
17 to be of use for investigative training, educational, or analytical
18 purposes may be retained by the ~~Oklahoma State Bureau of~~
19 Investigation Department in lieu of destruction.

20 B. 1. With respect to controlled dangerous substances seized
21 or surrendered pursuant to the provisions of the Uniform Controlled
22 Dangerous Substances Act, municipal police departments, sheriffs,
23 the ~~Oklahoma Bureau of Narcotics and Dangerous Drugs Control~~
24 Commission, and the Department of Public Safety, including the

1 Oklahoma Highway Patrol, ~~and the Oklahoma State Bureau of~~
2 ~~Investigation~~ shall have the authority to destroy seized controlled
3 dangerous substances when the amount seized in a single incident
4 exceeds ten (10) pounds. The destroying agency shall:

- 5 a. photograph the seized substance with identifying case
6 numbers or other means of identification,
- 7 b. prepare a report describing the seized substance prior
8 to the destruction,
- 9 c. retain at least one (1) pound of the substance
10 randomly selected from the seized substance for the
11 purpose of evidence, and
- 12 d. obtain and retain samples of the substance from enough
13 containers, bales, bricks, or other units of substance
14 seized to establish the presence of a weight of the
15 substance necessary to establish a violation of the
16 Trafficking in Illegal Drugs Act pursuant to
17 subsection C of Section 2-415 of this title, if such a
18 weight is present. If such weight is not present,
19 samples of the substance from each container, bale,
20 brick or other unit of substance seized shall be
21 taken. Each sample taken pursuant to this section
22 shall be large enough for the destroying agency and
23 the defendant or suspect to have an independent test
24

1 performed on the substance for purposes of
2 identification.

3 2. If a defendant or suspect is known to the destroying agency,
4 the destroying agency shall give at least seven (7) days' written
5 notice to the defendant, suspect or counsel for the defendant or
6 suspect of:

7 a. the date, the time, and the place where the
8 photographing will take place and notice of the right
9 to attend the photographing, and

10 b. the right to obtain samples of the controlled
11 dangerous substance for independent testing and use as
12 evidence.

13 3. The written notice shall also inform the defendant, suspect
14 or counsel for the defendant or suspect that the destroying agency
15 must be notified in writing within seven (7) days from receipt of
16 the notice of the intent of the suspect or defendant to obtain
17 random samples and make arrangements for the taking of samples. The
18 samples for the defendant or suspect must be taken by a person
19 licensed by the Drug Enforcement Administration. If the defendant
20 or counsel for the defendant fails to notify the destroying agency
21 in writing of an intent to obtain samples and fails to make
22 arrangements for the taking of samples, a sample taken pursuant to
23 subparagraph d of paragraph 1 of this subsection shall be made
24 available upon request of the defendant or suspect.

1 The representative samples, the photographs, the reports, and
2 the records made under this section and properly identified shall be
3 admissible in any court or administrative proceeding for any
4 purposes for which the seized substance itself would have been
5 admissible.

6 C. All other property not otherwise provided for in the Uniform
7 Controlled Dangerous Substances Act which has come into the
8 possession of the ~~Oklahoma State Bureau of Narcotics and Dangerous~~
9 ~~Drugs Control~~ Department of Public Safety or a district attorney may
10 be disposed of by order of the district court when no longer needed
11 in connection with any litigation. If the owner of the property is
12 unknown to the ~~Bureau~~ Department or district attorney, the ~~Bureau~~
13 Department shall hold the property for at least six (6) months prior
14 to filing a petition for disposal with the district court except for
15 laboratory equipment which may be forfeited when no longer needed in
16 connection with litigation, unless the property is perishable. The
17 ~~Director~~ Commissioner of Public Safety or district attorney shall
18 file a petition in the district court of Oklahoma County or in the
19 case of a district attorney, the petition shall be filed in a county
20 within the district attorney's jurisdiction requesting the authority
21 to:

- 22 1. Conduct a sale of the property;
- 23 2. Convert title of the property to the ~~Oklahoma State Bureau~~
24 ~~of Narcotics and Dangerous Drugs Control~~ Department or to the

1 district attorney's office for donation or transfer in accordance
2 with subsection ¶ G or ¶ I of this section; or

3 3. Convert title of the property to the ~~Oklahoma State Bureau~~
4 ~~of Narcotics and Dangerous Drugs Control~~ Department for the purpose
5 of leasing the property in accordance with subsection ¶ H of this
6 section.

7 The ~~Director~~ Commissioner or district attorney shall attach to the
8 petition a list describing the property, including all identifying
9 numbers and marks, if any, the date the property came into the
10 possession of the ~~Bureau~~ Department or district attorney, and the
11 name and address of the owner, if known. The notice of the hearing
12 of the petition for the sale of the property, except laboratory
13 equipment used in the processing, manufacturing or compounding of
14 controlled dangerous substances in violation of the provisions of
15 the Uniform Controlled Dangerous Substances Act, shall be given to
16 every known owner, as set forth in the petition, by certified mail
17 to the last-known address of the owner at least ten (10) days prior
18 to the date of the hearing. Notice of a hearing on a petition for
19 forfeiture or sale of laboratory equipment used in the processing,
20 manufacturing or compounding of controlled dangerous substances in
21 violation of the Uniform Controlled Dangerous Substances Act shall
22 not be required. The notice shall contain a brief description of
23 the property, and the location and date of the hearing. In
24 addition, notice of the hearing shall be posted in three public

1 places in the county, one such place being the county courthouse at
2 the regular place assigned for the posting of legal notices. At the
3 hearing, if no owner appears and establishes ownership of the
4 property, the court may enter an order authorizing the ~~Director~~
5 Commissioner or district attorney to donate the property pursuant to
6 subsection ~~F~~ G of this section, to sell the property at a public
7 auction to the highest bidder, or to convert title of the property
8 to the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs~~
9 ~~Control~~ Department for the purpose of leasing or transferring the
10 property pursuant to subsection ~~F~~ H or ~~K~~ I of this section after at
11 least ten (10) days' notice has been given by publication in one
12 issue of a legal newspaper of the county. If the property is
13 offered for sale at public auction and no bid is received that
14 exceeds fifty percent (50%) of the value of the property, such value
15 to be announced prior to the sale, the ~~Director~~ Commissioner or
16 district attorney may refuse to sell the item pursuant to any bid
17 received. The ~~Director~~ Commissioner or district attorney shall make
18 a return of the sale and, when confirmed by the court, the order
19 confirming the sale shall vest in the purchaser title to the
20 property so purchased. The money received from the sale shall be
21 used for the purpose of purchasing controlled dangerous substances
22 to be used as evidence in narcotic cases and fees for informers, or
23 employees and other associated expenses necessary to apprehend and
24 convict violators of the laws of the State of Oklahoma regulating

1 controlled dangerous substances. These funds shall be transferred
2 to the agency special account established pursuant to Section 7.2 of
3 Title 62 of the Oklahoma Statutes or the ~~Bureau of Narcotics~~
4 Revolving Fund or in the case of a district attorney, the revolving
5 fund in that district for drug education and enforcement. The
6 ~~Director of the Bureau of Narcotics and Dangerous Drugs Control~~
7 Commissioner and the Director of State Finance are hereby authorized
8 and directed to promulgate in writing the necessary rules and
9 regulations requiring strict accountability relative to the
10 expenditure of the above funds. In the case of a district attorney,
11 the accountability relative to the expenditure of the fund shall be
12 according to rules already existing for county revolving funds.

13 D. ~~At the request of the Department of Public Safety, the~~
14 ~~district attorney or a designee of the district attorney may conduct~~
15 ~~any forfeiture proceedings as described in Section 2-503 of this~~
16 ~~title on any property subject to forfeiture as described in~~
17 ~~subsection A, B, or C of Section 2-503 of this title. Except as~~
18 ~~provided in subsection A of this section, all other property not~~
19 ~~otherwise provided for in the Uniform Controlled Dangerous~~
20 ~~Substances Act which has come into the possession of the Oklahoma~~
21 ~~Department of Public Safety may be disposed of by order of the~~
22 ~~district court when no longer needed in connection with any~~
23 ~~litigation. If the owner of the property is unknown to the~~
24 ~~Department, the Department shall hold the property for at least six~~

1 ~~(6) months prior to filing a petition for disposal with the district~~
2 ~~court, unless the property is perishable. The Commissioner of~~
3 ~~Public Safety shall file a petition in the district court of~~
4 ~~Oklahoma County requesting the authority to conduct a sale of the~~
5 ~~property or to convert title of the property to the Oklahoma~~
6 ~~Department of Public Safety. The Commissioner of Public Safety~~
7 ~~shall attach to the petition a list describing the property,~~
8 ~~including all identifying numbers and marks, if any, the date the~~
9 ~~property came into the possession of the Department, and the name~~
10 ~~and address of the owner, if known. The notice of the hearing of~~
11 ~~the petition for the sale of the property shall be given to every~~
12 ~~known owner, as set forth in the petition, by certified mail to the~~
13 ~~last known address of the owner and party in last possession if~~
14 ~~applicable, at least ten (10) days prior to the date of the hearing.~~
15 ~~The notice shall contain a brief description of the property, and~~
16 ~~the location and date of the hearing. In addition, notice of the~~
17 ~~hearing shall be posted in three public places in the county, one~~
18 ~~such place being the county courthouse at the regular place assigned~~
19 ~~for the posting of legal notices. At the hearing, if no owner~~
20 ~~appears and establishes ownership of the property, the court may~~
21 ~~enter an order authorizing the Commissioner of Public Safety to~~
22 ~~donate the property pursuant to subsection I of this section, to~~
23 ~~sell the property to the highest bidder, or convert title of the~~
24 ~~property to the Oklahoma Department of Public Safety for the purpose~~

1 ~~of leasing or transferring the property pursuant to subsection J or~~
2 ~~K of this section after at least five (5) days' notice has been~~
3 ~~given by publication in one issue of a legal newspaper of the~~
4 ~~county. The Commissioner of Public Safety shall make a return of~~
5 ~~the sale and, when confirmed by the court, the order confirming the~~
6 ~~sale shall vest in the purchaser title to the property so purchased.~~
7 ~~The money received from the sale shall be deposited in the~~
8 ~~Department of Public Safety Revolving Fund and shall be expended for~~
9 ~~law enforcement purposes.~~

10 ~~E.~~ Except as provided in subsection A of this section, all
11 other property not otherwise provided for in the Uniform Controlled
12 Dangerous Substances Act which has come into the possession of the
13 Alcoholic Beverage Laws Enforcement Commission may be disposed of by
14 order of the district court when no longer needed in connection with
15 any litigation. If the owner of the property is unknown to the
16 Alcoholic Beverage Laws Enforcement Commission, the Commission shall
17 hold the property for at least six (6) months prior to filing a
18 petition for disposal with the district court, unless the property
19 is perishable. The Director of the Alcoholic Beverage Laws
20 Enforcement Commission shall file a petition in the district court
21 of Oklahoma County requesting the authority to conduct a sale of the
22 property or to convert title of the property to the Alcoholic
23 Beverage Laws Enforcement Commission. The Director of the Alcoholic
24 Beverage Laws Enforcement Commission shall attach to the petition a

1 list describing the property, including all identifying numbers and
2 marks, if any, the date the property came into the possession of the
3 Alcoholic Beverage Laws Enforcement Commission, and the name and
4 address of the owner, if known. The notice of the hearing of the
5 petition for the sale of the property shall be given to every known
6 owner, as set forth in the petition, by certified mail to the
7 last-known address of the owner at least ten (10) days prior to the
8 date of the hearing. The notice shall contain a brief description
9 of the property, and the location and date of the hearing. In
10 addition, notice of the hearing shall be posted in three public
11 places in the county, one such place being the county courthouse at
12 the regular place assigned for the posting of legal notices. At the
13 hearing, if no owner appears and establishes ownership of the
14 property, the court may enter an order authorizing the Director of
15 the Alcoholic Beverage Laws Enforcement Commission to donate the
16 property pursuant to subsection F G of this section or to sell the
17 property to the highest bidder after at least five (5) days' notice
18 has been given by publication in one issue of a legal newspaper of
19 the county. The Director of the Alcoholic Beverage Laws Enforcement
20 Commission shall make a return of the sale and, when confirmed by
21 the court, the order confirming the sale shall vest in the purchaser
22 title to the property so purchased. The money received from the
23 sale shall be deposited in the General Revenue Fund of the state.

24

1 ~~F. Except as provided in subsection A of this section, all~~
2 ~~other property not otherwise provided for in the Uniform Controlled~~
3 ~~Dangerous Substances Act which has come into the possession of the~~
4 ~~Oklahoma State Bureau of Investigation may be disposed of by order~~
5 ~~of the district court when no longer needed in connection with any~~
6 ~~litigation. If the owner of the property is unknown to the Bureau,~~
7 ~~the Bureau shall hold the property for at least six (6) months prior~~
8 ~~to filing a petition for disposal with the district court, unless~~
9 ~~the property is perishable. The Director of the Oklahoma State~~
10 ~~Bureau of Investigation shall file a petition in the district court~~
11 ~~of Oklahoma County requesting the authority to conduct a sale of the~~
12 ~~property or to convert title of the property to the Oklahoma State~~
13 ~~Bureau of Investigation. The Director of the Oklahoma State Bureau~~
14 ~~of Investigation shall attach to the petition a list describing the~~
15 ~~property, including all identifying numbers and marks, if any, the~~
16 ~~date the property came into the possession of the Bureau, and the~~
17 ~~name and address of the owner, if known. The notice of the hearing~~
18 ~~of the petition for the sale of the property shall be given to every~~
19 ~~known owner, as set forth in the petition, by certified mail to the~~
20 ~~last known address of the owner and party in last possession if~~
21 ~~applicable, at least ten (10) days prior to the date of the hearing.~~
22 ~~The notice shall contain a brief description of the property, and~~
23 ~~the location and date of the hearing. In addition, notice of the~~
24 ~~hearing shall be posted in three public places in the county, one~~

1 ~~such place being the county courthouse at the regular place assigned~~
2 ~~for the posting of legal notices. At the hearing, if no owner~~
3 ~~appears and establishes ownership of the property, the court may~~
4 ~~enter an order authorizing the Director of the Oklahoma State Bureau~~
5 ~~of Investigation to donate the property pursuant to subsection I of~~
6 ~~this section, to sell the property to the highest bidder, or convert~~
7 ~~title of the property to the Oklahoma State Bureau of Investigation~~
8 ~~for the purpose of leasing or transferring the property pursuant to~~
9 ~~subsection J or K of this section after at least five (5) days'~~
10 ~~notice has been given by publication in one issue of a legal~~
11 ~~newspaper of the county. The Director of the Oklahoma State Bureau~~
12 ~~of Investigation shall make a return of the sale and, when confirmed~~
13 ~~by the court, the order confirming the sale shall vest in the~~
14 ~~purchaser title to the property so purchased. The money received~~
15 ~~from the sale shall be deposited in the OSBI Revolving Fund and~~
16 ~~shall be expended for law enforcement purposes.~~

17 G. E. Except as provided in subsection A of this section, all
18 other property not otherwise provided for in the Uniform Controlled
19 Dangerous Substances Act which has come into the possession of the
20 Oklahoma Department of Corrections after being seized from persons
21 not in the custody or supervision of the Department of Corrections
22 may be disposed of by order of the district court when no longer
23 needed in connection with any litigation. If the owner of the
24 property is unknown to the Department, the Department shall hold the

1 property for at least six (6) months prior to filing a petition for
2 disposal with the district court, unless the property is perishable.
3 The Director of the Oklahoma Department of Corrections shall file a
4 petition in the district court of the county of seizure requesting
5 the authority to conduct a sale of the property or to convert title
6 to the property to the Oklahoma Department of Corrections. The
7 Director of the Oklahoma Department of Corrections shall attach to
8 the petition a list describing the property, including all
9 identifying numbers and marks, if any, the date the property came
10 into possession of the Department and the name and address of the
11 owner, if known. The notice of the hearing of the petition for the
12 sale of the property shall be given to every known owner, as set
13 forth in the petition, by certified mail to the last-known address
14 of the owner and party in last possession if applicable, at least
15 ten (10) days prior to the date of the hearing. The notice shall
16 contain a brief description of the property and the location and
17 date of the hearing. In addition, notice of the hearing shall be
18 posted in three public places in the county, one such place being
19 the county courthouse at the regular place assigned for the posting
20 of legal notices. At the hearing, if no owner appears and
21 establishes ownership of the property, the court may enter an order
22 authorizing the Director of the Oklahoma Department of Corrections
23 to donate the property pursuant to subsection ¶ G of this section,
24 to sell the property to the highest bidder or convert title of the

1 property to the Oklahoma Department of Corrections after at least
2 five (5) days' notice has been given by publication in one issue of
3 a legal newspaper of the county. The Director of the Oklahoma
4 Department of Corrections shall make a return of the sale and when
5 confirmed by the court, the order confirming the sale shall vest in
6 the purchaser title to the property so purchased. Twenty-five
7 percent (25%) of the money received from the sale shall be disbursed
8 to a revolving fund in the office of the county treasurer of the
9 county wherein the property was seized, said fund to be used as a
10 revolving fund solely for enforcement of controlled dangerous
11 substances laws, drug abuse prevention and drug abuse education.
12 The remaining seventy-five percent (75%) shall be deposited in the
13 Department of Corrections Revolving Fund to be expended for
14 equipment for probation and parole officers and correctional
15 officers.

16 H. F. Except as provided in subsection A of this section, all
17 other property not otherwise provided for in the Uniform Controlled
18 Dangerous Substances Act which has come into the possession of the
19 Office of the Attorney General may be disposed of by order of the
20 district court when no longer needed in connection with any
21 litigation. If the owner of the property is unknown to the Office,
22 the Office shall hold the property for at least six (6) months prior
23 to filing a petition for disposal with the district court, unless
24 the property is perishable. The Office of the Attorney General

1 shall file a petition in the district court of Oklahoma County
2 requesting the authority to conduct a sale of the property or to
3 convert title of the property to the Office of the Attorney General.
4 The Office of the Attorney General shall attach to the petition a
5 list describing the property, including all identifying numbers and
6 marks, if any, the date the property came into the possession of the
7 Office, and the name and address of the owner, if known. The notice
8 of the hearing of the petition for the sale of the property shall be
9 given to every known owner, as set forth in the petition, by
10 certified mail to the last-known address of the owner and party in
11 last possession, if applicable, at least ten (10) days prior to the
12 date of the hearing. The notice shall contain a brief description
13 of the property and the location and date of the hearing. In
14 addition, notice of the hearing shall be posted in three public
15 places in the county, one such place being the county courthouse at
16 the regular place assigned for the posting of legal notices. At the
17 hearing, if no owner appears and establishes ownership of the
18 property, the court may enter an order authorizing the Attorney
19 General to donate the property pursuant to subsection ¶ G of this
20 section, to sell the property to the highest bidder, or convert
21 title of the property to the Office of the Attorney General for the
22 purpose of leasing or transferring the property pursuant to
23 subsection ¶ H or ¶ I of this section after at least five (5) days'
24 notice has been given by publication in one issue of a legal

1 newspaper of the county. The Attorney General shall make a return
2 of the sale and, when confirmed by the court, the order confirming
3 the sale shall vest in the purchaser title to the property so
4 purchased. The money received from the sale shall be deposited in
5 the Attorney General Law Enforcement Revolving Fund and shall be
6 expended for law enforcement purposes. The Office of the Attorney
7 General may enter into agreements with municipal, county or state
8 agencies to return to such an agency a percentage of proceeds of the
9 sale of any property seized by the agency and forfeited under the
10 provisions of this section.

11 ~~I.~~ G. Any property, including but not limited to uncontaminated
12 laboratory equipment used in the processing, manufacturing or
13 compounding of controlled dangerous substances in violation of the
14 provisions of the Uniform Controlled Dangerous Substances Act, upon
15 a court order, may be donated for classroom or laboratory use by the
16 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~
17 Oklahoma Department of Public Safety, district attorney, the
18 Alcoholic Beverage Laws Enforcement Commission, the Oklahoma
19 Department of Corrections, or the Office of the Attorney General to
20 any public secondary school or technology center school in this
21 state or any institution of higher education within The Oklahoma
22 State System of Higher Education.

23 ~~J.~~ H. Any vehicle or firearm which has come into the possession
24 and title vested in ~~the Oklahoma State Bureau of Narcotics and~~

1 ~~Dangerous Drugs Control~~, the Oklahoma Department of Public Safety,
2 ~~the Oklahoma State Bureau of Investigation~~, or the Office of the
3 Attorney General, may be offered for lease to any sheriff's office
4 or police department in this state on an annual basis to assist with
5 the enforcement of the provisions of the Uniform Controlled
6 Dangerous Substances Act. Each agency shall promulgate rules,
7 regulations and procedures for leasing vehicles and firearms. No
8 fully automatic weapons will be subject to the leasing agreement.
9 All firearms leased may be utilized only by C.L.E.E.T.-certified
10 officers who have received training in the type and class of weapon
11 leased. Every lessee shall be required to submit an annual report
12 to the leasing agency stating the condition of all leased property.
13 A lease agreement may be renewed annually at the option of the
14 leasing agency. Upon termination of a lease agreement, the property
15 shall be returned to the leasing agency for sale or other
16 disposition. All funds derived from lease agreements or other
17 disposition of property no longer useful to law enforcement shall be
18 deposited in the agency's revolving fund and shall be expended for
19 law enforcement purposes.

20 ~~K. I.~~ I. Before disposing of any property pursuant to subsections
21 C through ~~F~~ E of this section, ~~the Oklahoma State Bureau of~~
22 ~~Narcotics and Dangerous Drugs Control~~, the Department of Public
23 Safety, the Alcoholic Beverage Laws Enforcement Commission, ~~the~~
24 ~~Oklahoma State Bureau of Investigation~~, the Office of the Attorney

1 General, or a district attorney shall notify the Department of
2 Corrections and the Oklahoma Department of Career and Technology
3 Education of the identity of any such property in their possession.
4 The Department of Corrections and the Oklahoma Department of Career
5 and Technology Education must respond within ten (10) days of such
6 notification, as to whether or not such property could be used in
7 the operations or training programs of either agency. Upon receipt
8 of the response, the agency or district attorney that issued the
9 notification shall negotiate as to which agency will be entitled to
10 the use of the property, the purpose of the use and the duration of
11 such use. Upon return of the property, the property may be disposed
12 of as otherwise provided in this section. The agencies and any
13 district attorney that are parties to any transfer of property
14 pursuant to this subsection shall enter into written agreements to
15 carry out any such transfer of property. Any such agreement may
16 also provide for the granting of title to any property being
17 transferred as the parties deem appropriate.

18 SECTION 44. AMENDATORY 63 O.S. 2001, Section 2-509, is
19 amended to read as follows:

20 Section 2-509. A. All species of plants from which controlled
21 dangerous substances in Schedules I and II may be derived are hereby
22 declared inimical to health and welfare of the public, and the
23 intent of the Legislature is to control and eradicate these species
24 of the plants in the State of Oklahoma.

1 B. It shall be unlawful for any person to cultivate or produce,
2 or to knowingly permit the cultivation, production, or wild growing
3 of any species of such plants, on any lands owned or controlled by
4 such person, and it is hereby declared the duty of every such person
5 to destroy all such plants found growing on lands owned or
6 controlled by ~~him~~ the person.

7 C. 1. Whenever any peace officer of the state shall receive
8 information that any species of any such plants has been found
9 growing on any private lands in the State of Oklahoma, he shall
10 notify the sheriff and county commissioners of the county wherein
11 such plants are found growing. Within five (5) days of receipt of
12 such notice, the county commissioners shall notify the owner or
13 person in possession of such lands that such plants have been found
14 growing on the said lands and that the same must be destroyed or
15 eradicated within fifteen (15) days. When the fifteen (15) days
16 have elapsed, the reporting peace officer shall cause an
17 investigation to be made of the aforesaid lands, and if any such
18 plants be found growing thereon, the commissioners shall cause the
19 same to be destroyed or eradicated by either cutting and burning or
20 by applications of herbicides approved for such purpose by the
21 Oklahoma Department of Agriculture, Food, and Forestry in accordance
22 with Section 2-505 of this title.

23 2. Whenever any such plants are destroyed or eradicated by
24 order of the commissioners as provided herein, the cost of the same

1 shall, if the work or labor be furnished by the commissioners, be
2 taxed against the lands whereon the work was performed, and shall be
3 a lien upon such land in all manner and respects as a lien of
4 judgment, if the owner is charged with a violation of subsection B
5 of this section. If the violation of subsection B of this section
6 is by a person other than the owner of the land, without the
7 knowledge of the owner, the costs shall be paid by the initiating
8 law enforcement agency.

9 D. Knowingly violating the provisions of subsection B of this
10 section is hereby declared, as to the owner, or person in possession
11 of such lands, to be a felony and punishable as such by a fine not
12 to exceed Fifty Thousand Dollars (\$50,000.00) and imprisonment in
13 the State Penitentiary for not less than two (2) years nor more than
14 life. The fine provided for in this subsection shall be in addition
15 to other punishments provided by law and shall not be in lieu of
16 other punishment. Any person convicted of a second or subsequent
17 violation of subsection B of this section is punishable by a term of
18 imprisonment twice that otherwise authorized and by twice the fine
19 otherwise authorized. Any sentence shall not be subject to
20 statutory provisions for suspended sentences, deferred sentences, or
21 probation, except when the conviction is for a first offense.

22 E. It shall be the duty of any peace officer of the State of
23 Oklahoma who receives information of such plants growing in the
24 State of Oklahoma, to make notice, in writing, to the ~~Oklahoma State~~

1 ~~Bureau of Narcotics and Dangerous Drugs Control~~ Department of Public
2 Safety and the future destruction or eradication of the annual
3 growth of such plants shall be supervised by the ~~Oklahoma State~~
4 ~~Bureau of Narcotics and Dangerous Drugs Control~~ Department. Any
5 destruction or eradication of the annual growth of such plants
6 supervised by the Bureau shall be by cutting and burning the same or
7 by destruction and eradication through applications of herbicides
8 approved for such purpose by the Oklahoma Department of Agriculture,
9 Food, and Forestry.

10 F. Any application of herbicides authorized by this section
11 shall be made pursuant to the provisions of Section 2-505 of this
12 title.

13 G. In lieu of the eradication procedures provided for in
14 subsections B and C of this section, all species of plants from
15 which controlled dangerous substances in Schedules I and II of the
16 Uniform Controlled Dangerous Substances Act may be derived, may be
17 disposed of pursuant to the provisions of subsection C of Section 2-
18 505 of this title.

19 SECTION 45. AMENDATORY 74 O.S. 2001, Section 18c, as
20 last amended by Section 8, Chapter 405, O.S.L. 2005 (74 O.S. Supp.
21 2006, Section 18c), is amended to read as follows:

22 Section 18c. A. 1. Except as otherwise provided by this
23 subsection, no state officer, board or commission shall have
24

1 authority to employ or appoint attorneys to advise or represent said
2 officer, board or commission in any matter.

3 2. The provisions of this subsection shall not apply to the
4 Corporation Commission, the Council on Law Enforcement Education and
5 Training, the Consumer Credit Commission, the Board of Managers of
6 the State Insurance Fund, the Oklahoma Tax Commission, the
7 Commissioners of the Land Office, the Oklahoma Public Welfare
8 Commission also known as the Commission for Human Services, the
9 Board of Corrections, the Oklahoma Health Care Authority, the
10 Department of Public Safety, ~~the Oklahoma State Bureau of Narcotics~~
11 ~~and Dangerous Drugs Control~~, the Alcoholic Beverage Laws Enforcement
12 Commission, the Transportation Commission, the Oklahoma Energy
13 Resources Board, the Department of Central Services, the Oklahoma
14 Merit Protection Commission, the Office of Personnel Management, the
15 Oklahoma Water Resources Board, the Department of Labor, the ~~State~~
16 Oklahoma Department of Agriculture, Food, and Forestry, the
17 Northeast Oklahoma Public Facilities Authority, the Oklahoma
18 Firefighters Pension and Retirement System, the Oklahoma Public
19 Employees Retirement System, the Uniform Retirement System for
20 Justices and Judges, the Oklahoma Conservation Commission and the
21 Office of Juvenile Affairs.

22 3. The provisions of paragraph 2 of this subsection shall not
23 be construed to authorize the Office of Juvenile Affairs to employ
24 any attorneys that are not specifically authorized by law.

1 4. All the legal duties of such officer, board or commission
2 shall devolve upon and are hereby vested in the Attorney General;
3 provided that:

4 a. the Governor shall have authority to employ special
5 counsel to protect the rights or interest of the state
6 as provided in Section 6 of this title, and

7 b. liquidation agents of banks shall have the authority
8 to employ local counsel, with the consent of the Bank
9 Commissioner and the Attorney General and the approval
10 of the district court.

11 B. At the request of any state officer, board or commission,
12 except the Corporation Commission, the Board of Managers of the
13 CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners
14 of the Land Office, the Grand River Dam Authority, ~~the Oklahoma~~
15 ~~State Bureau of Narcotics and Dangerous Drugs Control,~~ the Alcoholic
16 Beverage Laws Enforcement Commission, the Oklahoma Firefighters
17 Pension and Retirement System, the Oklahoma Public Employees
18 Retirement System, the Uniform Retirement System for Justices and
19 Judges and the Interstate Oil and Gas Compact Commission, the
20 Attorney General shall defend any action in which they may be sued
21 in their official capacity. At the request of any such state
22 officer, board or commission, the Attorney General shall have
23 authority to institute suits in the name of the State of Oklahoma on
24

1 their relation, if after investigation the Attorney General is
2 convinced there is sufficient legal merit to justify the action.

3 C. Any officer, board, or commission which has the authority to
4 employ or appoint attorneys may request that the Attorney General
5 defend any action arising pursuant to the provisions of the
6 Governmental Tort Claims Act.

7 D. Nothing in this section shall be construed to repeal or
8 affect the provisions of the statutes of this state pertaining to
9 attorneys and legal advisors of the several commissions and
10 departments of state specified in subsection B of this section, and
11 all acts and parts of acts pertaining thereto shall be and remain in
12 full force and effect.

13 SECTION 46. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 149.1 of Title 74, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The Oklahoma State Bureau of Investigation is hereby
17 abolished, effective July 1, 2009. Any reference in the Oklahoma
18 Statutes to the Oklahoma State Bureau of Investigation shall be
19 deemed to be a reference to the Department of Public Safety. Any
20 reference in the Oklahoma Statutes to the Director of the Oklahoma
21 State Bureau of Investigation shall be deemed to be a reference to
22 the Commissioner of Public Safety.

23 B. All assets, funds, liabilities, allotments, purchase orders,
24 outstanding financial obligations, encumbrances, records, aircraft,

1 vehicles, equipment, and other property of the Oklahoma State Bureau
2 of Investigation is hereby transferred to the Department of Public
3 Safety.

4 C. Personnel employed by the Oklahoma State Bureau of
5 Investigation on July 1, 2009, shall be transferred to the
6 Department of Public Safety pursuant to a transition plan
7 implemented by the Commissioner of Public Safety as required by
8 Section 47 of this act.

9 D. The classified and unclassified employees who are
10 transferred pursuant to this section shall be subject to the
11 following provisions:

12 1. Classified employees shall remain subject to the provisions
13 of the Merit System of Personnel Administration, as provided in the
14 Oklahoma Personnel Act;

15 2. Unclassified employees shall remain in the unclassified
16 service and shall serve at the pleasure of the Commissioner of
17 Public Safety;

18 3. All employees who are transferred to the Department of
19 Public Safety shall retain leave, sick and annual time earned and
20 any retirement and longevity benefits which have accrued during
21 their employment with the state. The salaries of employees who are
22 transferred shall not be reduced as a direct and immediate result of
23 the transfer;

24

1 4. If the Department of Public Safety should implement a
2 reduction in force, all employees transferred from the Oklahoma
3 State Bureau of Investigation shall be credited for the time they
4 were employed by the Oklahoma State Bureau of Investigation; and

5 5. The transfer of personnel shall be coordinated with the
6 Office of Personnel Management.

7 SECTION 47. NEW LAW A new section of law not to be
8 codified in the Oklahoma Statutes reads as follows:

9 A. Effective January 1, 2008, the Director of the Oklahoma
10 State Bureau of Investigation and the Commissioner of Public Safety
11 shall serve as transition coordinators and shall establish a
12 transition team to coordinate the orderly transfer of duties,
13 personnel, property, funds, and encumbrances from the Oklahoma State
14 Bureau of Investigation to the Department of Public Safety. The
15 Director and the Commissioner may assign personnel to the transition
16 team from their respective agencies as deemed necessary.

17 B. The transition team shall:

18 1. In conjunction with the Oklahoma Department of Central
19 Services, the Oklahoma Office of State Finance and the Oklahoma
20 Office of Personnel Management, oversee and administer the orderly
21 transfer of responsibilities, liabilities, property, records,
22 personnel and any outstanding financial obligations or encumbrances
23 to the Department of Public Safety from the Oklahoma State Bureau of
24 Investigation;

1 2. Review functions currently assigned to or managed by the
2 Oklahoma State Bureau of Investigation;

3 3. Devise a proposal for an organizational framework within the
4 Department of Public Safety for drug law enforcement functions
5 presently performed by the Oklahoma State Bureau of Investigation;

6 4. Establish a plan for the transfer of employees from the
7 Oklahoma State Bureau of Investigation to the Department of Public
8 Safety. The plan shall include a list of positions to be
9 transferred. In no event shall the number of full-time-equivalent
10 employees for the Oklahoma State Bureau of Investigation
11 transferring or electing to remain with the Department of Public
12 Safety exceed three hundred and one full-time-equivalent positions;
13 and

14 5. Take such other action as may be reasonably necessary and
15 appropriate to effectuate the orderly transition of functions as
16 provided by this act.

17 SECTION 48. AMENDATORY 74 O.S. 2001, Section 150.2, as
18 last amended by Section 1, Chapter 303, O.S.L. 2006 (74 O.S. Supp.
19 2006, Section 150.2), is amended to read as follows:

20 Section 150.2 ~~The Oklahoma State Bureau of Investigation~~
21 Department of Public Safety, in addition to other powers and duties
22 provided by law, shall have the power and duty to:

23

24

- 1 1. Maintain a nationally accredited scientific laboratory to
2 assist all law enforcement agencies in the discovery and detection
3 of criminal activity;
- 4 2. Maintain fingerprint and other identification files
5 including criminal history records, juvenile identification files,
6 and DNA profiles;
- 7 3. Establish, coordinate and maintain the automated
8 fingerprinting identification system (AFIS) and the deoxyribonucleic
9 acid (DNA) laboratory;
- 10 4. Operate teletype, mobile and fixed radio or other
11 communications systems;
- 12 5. Conduct schools and training programs for the agents, peace
13 officers, and technicians of this state charged with the enforcement
14 of law and order and the investigation and detection of crime;
- 15 6. ~~Assist the Director of the Oklahoma State Bureau of~~
16 ~~Narcotics and Dangerous Drugs Control,~~ the Chief Medical Examiner,
17 and all law enforcement officers and district attorneys when such
18 assistance is requested, ~~in accordance with the policy determined by~~
19 ~~the Oklahoma State Bureau of Investigation Commission established in~~
20 ~~Section 150.3 of this title;~~
- 21 7. Investigate and detect criminal activity when directed to do
22 so by the Governor;
- 23 8. Investigate, detect, institute and maintain actions
24 involving vehicle theft pursuant to Section 150.7a of this title or

1 oil, gas or oil field equipment theft pursuant to Sections 152.2
2 through 152.9 of this title;

3 9. Investigate any criminal threat made to the physical safety
4 of elected or appointed officials of this state or any political
5 subdivision of the state ~~and forward the results of that~~
6 ~~investigation to the Department of Public Safety,~~ and provide
7 security to foreign elected or appointed officials while they are in
8 this state on official business;

9 10. Investigate and detect violations of the Oklahoma Computer
10 Crimes Act; and

11 11. Investigate and enforce all laws relating to any crime
12 listed as an exception to the definition of "nonviolent offense" as
13 set forth in section 571 of Title 57 of the Oklahoma Statutes that
14 occur on the turnpikes.

15 SECTION 49. AMENDATORY 74 O.S. 2001, Section 150.4, is
16 amended to read as follows:

17 Section 150.4 ~~The Commission~~ Commissioner of Public Safety, in
18 addition to other duties provided by law, shall have the following
19 powers and duties and responsibilities:

20 1. ~~To appoint the Director of the Oklahoma State Bureau of~~
21 ~~Investigation, whose compensation shall be determined by the~~
22 ~~Legislature.~~

23

24

1 ~~2-~~ To hear any complaint against the ~~Bureau~~ Department of
2 Public Safety or any of its employees according to the following
3 procedure:

- 4 a. only those complaints which have been submitted in
5 writing and are signed will be acted upon by the
6 ~~Commission.~~ Commissioner,
- 7 b. all hearings on complaints shall be conducted in
8 executive sessions, and shall not be open to the
9 ~~public,~~ and
- 10 c. ~~The Commission~~ hearing examiners shall have limited
11 access to pertinent investigative files when
12 investigating a complaint. The ~~Director~~ Commissioner
13 shall provide a procedure whereby the identification
14 of all persons named in any investigative file except
15 the subject of the complaint and the complaining
16 witness shall not be revealed to ~~the members of the~~
17 ~~Commission~~ hearing examiners. Any consideration of
18 files shall be in executive session not open to the
19 public. No information or evidence received in
20 connection with the hearings shall be revealed to any
21 person or agency. Any violation hereof shall ~~be~~
22 ~~grounds for removal from the Commission, and shall~~
23 constitute a misdemeanor;i

1 ~~3.~~ 2. To ~~make recommendations to the Director of~~ take any
2 needed disciplinary action necessary as a result of an investigation
3 conducted upon a complaint received~~;~~;

4 ~~4.~~ 3. To establish general procedures with regard to assisting
5 law enforcement officers and district attorneys~~;~~; and

6 ~~5.~~ 4. To establish a program of training for agents utilizing
7 such courses as the National Police Academy conducted by the Federal
8 Bureau of Investigation.

9 ~~6. To require the Director to advise the Commission on the
10 progress of pending investigations. All discussions of pending
11 investigations shall be conducted in executive session not open to
12 the public and no minutes of such sessions shall be kept. The
13 Director shall not reveal the identity of any witnesses interviewed
14 or the substance of their statements. No information received by
15 the Commission shall be revealed to any person or agency by any
16 Commission member. Any violation of this paragraph by a Commission
17 member shall be grounds for removal from the Commission and shall
18 constitute a misdemeanor.~~

19 SECTION 50. AMENDATORY 74 O.S. 2001, Section 150.5, as
20 last amended by Section 17, Chapter 205, O.S.L. 2006 (74 O.S. Supp.
21 2006, Section 150.5), is amended to read as follows:

22 Section 150.5 A. 1. ~~Oklahoma State Bureau of Investigation~~
23 ~~investigations~~ Investigations not covered under Section 150.2 of
24

1 this title shall be initiated at the request of the following
2 persons:

3 a. the Governor,

4 b. the Attorney General,

5 c. the Council on Judicial Complaints upon a vote by a
6 majority of the Council,

7 d. the chair of any Legislative Investigating Committee
8 which has been granted subpoena powers by resolution,
9 upon authorization by a vote of the majority of the
10 Committee,

11 e. the Director of the Department of Human Services, or
12 designee, as authorized by Section 7106 of Title 10 of
13 the Oklahoma Statutes, or

14 f. a district court judge as authorized by Section ~~15~~
15 7104.1 of ~~this act~~ Title 10 of the Oklahoma Statutes.

16 2. Requests for investigations shall be submitted in writing
17 and shall contain specific allegations of wrongdoing under the laws
18 of the State of Oklahoma.

19 B. The Governor may initiate special background investigations
20 with the written consent of the person who is the subject of the
21 investigation.

22 C. The chair of any Senate committee which is fulfilling the
23 statutory responsibility for approving nominations made by the
24 Governor may, upon a vote by a majority of the committee and with

1 the written consent of the person who is to be the subject of the
2 investigation, initiate a special background investigation of any
3 nominee for the Oklahoma Horse Racing Commission as established by
4 Section 201 of Title 3A of the Oklahoma Statutes or any nominee for
5 the Board of Trustees of the Oklahoma Lottery Commission as
6 established by Section 704 of Title 3A of the Oklahoma Statutes.
7 The ~~Bureau~~ Department of Public Safety shall submit a report to the
8 committee within thirty (30) days of the receipt of the request.
9 Any consideration by the committee of a report from the ~~Bureau~~
10 Department shall be for the exclusive use of the committee and shall
11 be considered only in executive session.

12 D. All records relating to any investigation being conducted by
13 the ~~Bureau~~ Department, including any records of laboratory services
14 provided to law enforcement agencies pursuant to paragraph 1 of
15 Section 150.2 of this title, shall be confidential and shall not be
16 open to the public ~~or to the Commission except as provided in~~
17 ~~Section 150.4 of this title~~; provided, however, officers and agents
18 of the ~~Bureau~~ Department may disclose, at the discretion of the
19 ~~Director~~ Commissioner of Public Safety, such investigative
20 information to hearing examiners to the extent provided in Section
21 150.4 of this title, officers and agents of federal, state, county,
22 or municipal law enforcement agencies and to district attorneys, in
23 the furtherance of criminal investigations within their respective
24 jurisdictions. Officers and agents of the ~~Bureau~~ Department may

1 also disclose, at the discretion of the ~~Director~~ Commissioner, such
2 investigative information to appropriate accreditation bodies for
3 the purposes of the ~~Bureau's~~ Department obtaining or maintaining
4 accreditation. Any unauthorized disclosure of any information
5 contained in the confidential files of the ~~Bureau~~ Department shall
6 be a misdemeanor. The person or entity authorized to initiate
7 investigations in this section, and the Attorney General in the case
8 of investigations initiated by the Insurance Commissioner, shall
9 receive a report of the results of the requested investigation. The
10 person or entity requesting the investigation may give that
11 information only to the appropriate prosecutorial officer or agency
12 having statutory authority in the matter if that action appears
13 proper from the information contained in the report, and shall not
14 reveal or give such information to any other person or agency.
15 Violation hereof shall be deemed willful neglect of duty and shall
16 be grounds for removal from office.

17 E. It shall not be a violation of this section to reveal
18 otherwise confidential information to outside agencies or
19 individuals who are providing interpreter services, questioned
20 document analysis, and other laboratory services that are necessary
21 in the assistance of ~~Bureau~~ Department investigations. Individuals
22 or agencies receiving the confidential and investigative information
23 or records or results of laboratory services provided to the ~~Bureau~~
24 Department by those agencies or individuals, shall be subject to the

1 confidentiality provisions and requirements established in
2 subsection D of this section.

3 F. The State Treasurer shall initiate a complete background
4 investigation of the positions with the written consent of the
5 persons who are the subject of the investigation pursuant to
6 subsection I of Section 71.1 of Title 62 of the Oklahoma Statutes.
7 The ~~Bureau~~ Department shall advise the State Treasurer and the Cash
8 Management and Investment Oversight Commission in writing of the
9 results of the investigation.

10 SECTION 51. AMENDATORY 74 O.S. 2001, Section 150.7, as
11 amended by Section 1, Chapter 42, O.S.L. 2002 (74 O.S. Supp. 2006,
12 Section 150.7), is amended to read as follows:

13 Section 150.7 ~~The Director of the Oklahoma State Bureau of~~
14 ~~Investigation~~ Commissioner of Public Safety, in addition to other
15 powers, duties and responsibilities provided by law, shall have the
16 following powers, duties and responsibilities:

17 1. ~~To appoint or dismiss a Deputy Director who shall have the~~
18 ~~same qualifications as the Director;~~

19 2. ~~To supervise the maintaining of all reports and records of~~
20 ~~the Bureau~~ compiled pursuant to Sections 150.2 through 152.10 of
21 this title and to promulgate administrative rules concerning the
22 destruction and retention of such records. Such records shall not
23 be transferred to the custody or control of the State Archives
24 Commission or be subject to the provisions of Section 590 of Title

1 21 of the Oklahoma Statutes. The ~~Director~~ Commissioner may,
2 pursuant to adopted and promulgated administrative rule, order
3 destruction of records deemed to be no longer of value to the ~~Bureau~~
4 Department of Public Safety, excluding criminalistic and
5 investigative records which shall forever be kept and maintained;
6 and

7 ~~3. To report to the Commission at each regular meeting, or as~~
8 ~~directed by the Commission, the current workload of the Bureau.~~
9 ~~Such reports shall be submitted by category of the persons or~~
10 ~~entities authorized to initiate investigations as provided for in~~
11 ~~subsection A of Section 150.5 of this title, and any other category~~
12 ~~the Commission may request which does not violate the~~
13 ~~confidentiality restrictions imposed in Sections 150.1 through 152.9~~
14 ~~of this title. Such reports shall contain the following~~
15 ~~information:~~

- 16 a. ~~what types of investigations are pending,~~
17 b. ~~what new types of investigations have been opened,~~
18 c. ~~what types of investigations have been closed, and~~
19 d. ~~what criminal charges have been filed as a result of~~
20 ~~Bureau investigations.~~

21 ~~The reports shall not contain any information on the individual~~
22 ~~subjects of the investigation or persons questioned in connection~~
23 ~~with an investigation. These reports shall be open for public~~
24 ~~inspection;~~

1 4. ~~To designate positions, appoint employees and fix salaries~~
2 ~~of the Bureau, other than the salaries established by subsection A~~
3 ~~of Section 150.6a of this title, and to authorize the payment of~~
4 ~~necessary certification expenses for the employees; and~~

5 5. 2. To authorize the purchase and issuance of uniforms for
6 all law enforcement officers, criminalists, and other personnel of
7 the ~~Bureau~~ Department as designated by the ~~Director~~ Commissioner and
8 to purchase and issue necessary equipment for all employees of the
9 ~~Bureau~~ Department. All uniforms and equipment shall be used only in
10 the performance of the official duties of the officers, criminalists
11 or other personnel and shall remain the property of the ~~Bureau~~
12 Department except as otherwise provided by law.

13 SECTION 52. AMENDATORY 74 O.S. 2001, Section 150.7a, as
14 amended by Section 2, Chapter 303, O.S.L. 2006 (74 O.S. Supp. 2006,
15 Section 150.7a), is amended to read as follows:

16 Section 150.7a A. ~~The Director of the Oklahoma State Bureau of~~
17 ~~Investigation~~ Commissioner of Public Safety shall, pursuant to
18 Section 150.2 of this title, have the authority to investigate,
19 detect, institute, and maintain actions involving vehicle theft.

20 B. Any commissioned employee of the ~~Oklahoma State Bureau of~~
21 ~~Investigation~~ Department of Public Safety may:

22 1. Conduct investigations of organized motor vehicle or heavy
23 equipment theft rings;

1 2. Determine sources and outlets for stolen motor vehicles,
2 motor vehicle parts or heavy equipment;

3 3. Investigate any theft of a motor vehicle, motor vehicle
4 parts or heavy equipment for which the ~~Agency~~ Department receives
5 notice;

6 4. Arrest or cause the arrest of any person when reasonable
7 grounds exist to believe that such person has stolen a motor
8 vehicle, motor vehicle parts or heavy equipment;

9 5. Coordinate the effort of this state to reduce motor vehicle
10 theft with local, state and federal law enforcement agencies; or

11 6. Develop educational programs on detection and prevention of
12 motor vehicle theft.

13 SECTION 53. AMENDATORY 74 O.S. 2001, Section 150.7d, is
14 amended to read as follows:

15 Section 150.7d Any information furnished as provided by
16 Sections ~~±~~ 150.7b through ~~±~~ 150.7e of this ~~act~~ title shall be
17 privileged and not a part of any public record. Except as otherwise
18 provided by law, the ~~Oklahoma State Bureau of Investigation~~
19 Department of Public Safety, any authorized governmental agency,
20 insurer, or agent authorized by an insurer to act on its behalf that
21 receives any information furnished as provided by Sections ~~±~~ 150.7b
22 through ~~±~~ 150.7e of this ~~act~~ title shall not release the information
23 to the public. The evidence or information shall not be subject to
24 a subpoena or subpoena duces tecum in a civil or criminal proceeding

1 unless, after reasonable notice to any insurer, an agent authorized
2 by an insurer to act on its behalf, the ~~Oklahoma State Bureau of~~
3 ~~Investigation~~ Department, or any authorized governmental agency that
4 has an interest in the information, and after a hearing, a court
5 determines that the public interest and any ongoing investigation by
6 the ~~Oklahoma State Bureau of Investigation~~ Department, authorized
7 governmental agency, insurer, or agent authorized by an insurer to
8 act on its behalf will not be jeopardized by obedience to the
9 subpoena.

10 SECTION 54. AMENDATORY 74 O.S. 2001, Section 150.8a, as
11 last amended by Section 2, Chapter 223, O.S.L. 2005 (74 O.S. Supp.
12 2006, Section 150.8a), is amended to read as follows:

13 Section 150.8a A. The ~~Oklahoma State Bureau of Investigation~~
14 Department of Public Safety is authorized to establish an employee
15 performance recognition program that encourages outstanding job
16 performance and productivity within the ~~Bureau~~ Department. The
17 ~~Bureau~~ Department is authorized to expend funds for:

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

22 2. The purchase of recognition awards to be presented to
23 nonemployees of the ~~Bureau~~ Department in recognition of exemplary
24

1 service or assistance to the ~~Bureau~~ Department and law enforcement;
2 and

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

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

14 C. The ~~Bureau~~ Department may expend funds not exceeding Three
15 Thousand Dollars (\$3,000.00) each fiscal year for the purpose of
16 distributing commemorative items including, but not limited to,
17 pens, patches, and notebook portfolios bearing the seal or other
18 identification of the ~~Bureau~~ Department to nonemployees of the
19 ~~Bureau~~ Department. The ~~Bureau~~ Department may expend additional
20 funds to provide awards and commemorative items including, but not
21 limited to, pens, patches and notebook portfolios bearing the seal
22 or other identification of the ~~Bureau~~ Department to participants in
23 ~~OSBI~~ Citizen Academies designed and held to foster better public
24

1 relations and to educate members of the community about the ~~Bureau's~~
2 mission and operations of the Department.

3 SECTION 55. AMENDATORY 74 O.S. 2001, Section 150.9, as
4 amended by Section 11, Chapter 204, O.S.L. 2003 (74 O.S. Supp. 2006,
5 Section 150.9), is amended to read as follows:

6 Section 150.9 A. ~~The Oklahoma State Bureau of Investigation~~
7 Department of Public Safety shall procure, file and maintain
8 criminal history records for each person subject to the mandatory
9 reporting provisions of this act, including photographs,
10 descriptions, fingerprints, measurements and other pertinent
11 information relating to such persons. It shall be the duty of law
12 enforcement officers and agencies, sheriffs, police, courts,
13 judicial officials, district attorneys, and the persons in charge of
14 any state correctional facility or institution to furnish criminal
15 history records to the ~~Bureau~~ Department as required by Section
16 150.1 et seq. of this title. ~~The Oklahoma State Bureau of~~
17 ~~Investigation~~ Department shall cooperate with and assist the
18 sheriffs, chiefs of police and other law enforcement officers of the
19 state by maintaining a complete criminal history record on each
20 person subject to the mandatory reporting requirements of this act,
21 and shall have on file the fingerprint impressions of all such
22 persons together with other pertinent information as may from time
23 to time be received from the law enforcement officers of this and
24 other states or as may be required by law.

1 B. The Oklahoma Department of Consumer Credit, the Oklahoma
2 State Insurance Commission, the Oklahoma Horse Racing Commission, or
3 any other state agency, board, department or commission or any other
4 person or entity requesting a criminal history record or an analysis
5 of fingerprints for commercial, licensing or other purposes, except
6 law enforcement purposes, shall pay a fee to the ~~Bureau~~ Department
7 for each criminal history record or fingerprint analysis as follows:

8 Oklahoma criminal history record only	\$15.00 each
9 Oklahoma criminal history record	
10 with fingerprint analysis	\$19.00 each
11 National criminal history record	
12 with fingerprint analysis	\$41.00 each

13 1. For purposes of this section, "a national criminal history
14 record check" means a check of criminal history records entailing
15 the fingerprinting of the individual and submission of the
16 fingerprints to the United States Federal Bureau of Investigation
17 (FBI) for the purpose of obtaining the national criminal history
18 record of the person from the FBI. A criminal history record check
19 may be obtained only when a check is authorized or required by state
20 or federal law.

21 2. Unless a national criminal history record is specifically
22 requested, a fingerprint analysis shall be limited to only those
23 records available at the ~~Oklahoma State Bureau of Investigation~~
24 Department. Following receipt of the appropriate fee, the ~~Bureau~~

1 Department shall provide, as soon as possible, the criminal history
2 record requested; provided, however, it shall be the duty and
3 responsibility of the requesting authority to evaluate the criminal
4 history record as such record may apply to a specific purpose or
5 intent. An individual may submit a certified court record showing
6 that a charge was dismissed or a certified copy of a gubernatorial
7 pardon to the ~~Oklahoma State Bureau of Investigation~~ Department, and
8 upon verification of that record the ~~Bureau~~ Department records shall
9 reflect the dismissal of that charge.

10 C. The ~~Oklahoma Bureau of Investigation~~ Department may maintain
11 an identification file, including fingerprint impressions, on any
12 person under eighteen (18) years of age who is arrested or subject
13 to criminal or juvenile delinquency proceedings, provided all such
14 information shall be confidential and shall only be made available
15 to the Bureau and other law enforcement agencies. Whenever a
16 fingerprint impression or other identification information is
17 submitted to the ~~Bureau~~ Department on a person under eighteen (18)
18 years of age, the ~~Bureau~~ Department may retain and file such
19 fingerprint and identification information for identification
20 purposes only. The ~~Bureau~~ Department shall ensure that the
21 information received and maintained for identification purposes on
22 persons under eighteen (18) years of age shall be handled and
23 processed with great care to keep such information confidential from
24 the general public. The ~~Bureau~~ Department may receive and maintain

1 the fingerprints and other identification information on any person
2 under eighteen (18) years of age believed to be the subject of a
3 runaway, missing, or abduction investigation, for identification
4 purposes at the request of a parent, guardian or legal custodian of
5 the person.

6 D. Any person who knowingly procures, utters, or offers any
7 false, forged or materially altered criminal history record shall be
8 guilty of a felony and upon conviction shall be punished by
9 imprisonment in the ~~State Penitentiary~~ custody of the Department of
10 Corrections for a period not to exceed five (5) years or by a fine
11 not to exceed Five Thousand Dollars (\$5,000.00), or by both such
12 fine and imprisonment.

13 SECTION 56. AMENDATORY 74 O.S. 2001, Section 150.10, as
14 amended by Section 1, Chapter 106, O.S.L. 2005 (74 O.S. Supp. 2006,
15 Section 150.10), is amended to read as follows:

16 Section 150.10 A. A uniform crime reporting system shall be
17 established by the ~~Oklahoma State Bureau of Investigation~~ Department
18 of Public Safety. The ~~Director~~ Commissioner of Public Safety shall
19 have the power and duty, ~~when directed by the Commission,~~ to collect
20 and gather such information from such state agencies as may be
21 prescribed in Section 150.1 et seq. of this title.

22 B. The ~~Oklahoma State Bureau of Investigation~~ Department is
23 hereby designated as the agency which shall collect, gather,
24

1 assemble and collate such information as is prescribed by this
2 section.

3 C. 1. All state, county, city and town law enforcement
4 agencies shall submit reports to the ~~Oklahoma State Bureau of~~
5 ~~Investigation~~ Department on forms prescribed by the ~~Bureau~~
6 Department. The reports shall contain the number and nature of
7 offenses committed within their respective jurisdictions, the
8 disposition of such matters, and such other information as the
9 Bureau may require, respecting information relating to the cause and
10 prevention of crime, recidivism, the rehabilitation of criminals and
11 the proper administration of criminal justice.

12 2. Any information taken from such information, data, records
13 or reports submitted to the uniform crime reporting system and used
14 to prepare the Uniform Crime Report shall be an open record pursuant
15 to the Oklahoma Open Records Act. Requests for such information
16 shall be submitted to the ~~Bureau~~ Department.

17 3. Any request under the Oklahoma Open Records Act for any
18 other information, data, records or reports submitted to the uniform
19 crime reporting system by the ~~Oklahoma State Bureau of Investigation~~
20 Department shall be directed to the ~~Bureau~~ Department pursuant to
21 Section 24A.20 of Title 51 of the Oklahoma Statutes. Such
22 information, data, records or reports shall be considered
23 investigative records of the ~~Bureau~~ Department and shall be subject
24

1 to discovery and disclosure only in compliance with Section 150.5 of
2 this title or other applicable statute.

3 4. Any request under the Oklahoma Open Records Act for any
4 information, data, records or reports submitted by a law enforcement
5 agency other than the ~~Oklahoma State Bureau of Investigation~~
6 Department to the uniform crime reporting system shall be directed
7 to the law enforcement agency submitting the information, data,
8 records or reports to the ~~Bureau~~ Department unit pursuant to Section
9 24A.20 of Title 51 of the Oklahoma Statutes. Such information,
10 data, records or reports shall be considered law enforcement records
11 and shall be subject to discovery and disclosure only in compliance
12 with Section 24A.8 of Title 51 of the Oklahoma Statutes or other
13 applicable statute.

14 D. Upon receipt of such information, the ~~Director~~ Commissioner
15 shall have such data collated and formulated and shall compile such
16 statistics as the ~~Director~~ Commissioner may deem necessary in order
17 to present a proper classification and analysis of the volume and
18 nature of crime and the administration of criminal justice within
19 this state.

20 E. Refusal or persistent failure of any law enforcement agency
21 to submit reports required by this section may result in
22 discontinued access to ~~Bureau~~ Department information and assistance.

23
24

1 SECTION 57. AMENDATORY 74 O.S. 2001, Section 150.11, as
2 amended by Section 2, Chapter 42, O.S.L. 2002 (74 O.S. Supp. 2006,
3 Section 150.11), is amended to read as follows:

4 Section 150.11 A. All property which comes into the possession
5 of the ~~Oklahoma State Bureau of Investigation (OSBI)~~ Department of
6 Public Safety, whether the same is stolen, embezzled or otherwise,
7 which the ~~Bureau~~ Department has held for at least one (1) year
8 unless said property is perishable, may be disposed of by order of
9 an Oklahoma County district court if the owner or owners of said
10 property are unknown or have not claimed the same. The ~~Director of~~
11 ~~the Oklahoma State Bureau of Investigation~~ Commissioner of Public
12 Safety shall then be authorized to sell, deposit, or otherwise
13 dispose of such property or any part thereof which is no longer
14 needed to be held as evidence or otherwise used in connection with
15 any litigation.

16 B. 1. If cash or other legal tender is the subject of the
17 action, the ~~Director~~ Commissioner shall file a petition in the
18 district court of Oklahoma County requesting authority to forfeit
19 and deposit the funds. The petition shall include the following
20 information:

- 21 a. description of the property,
- 22 b. approximate date that the property came into
- 23 possession of the ~~Director~~ Commissioner, and
- 24 c. the names of the owner or owners, if known.

1 2. Upon the filing of the petition, notice of at least ten (10)
2 days shall be given to each known owner by the ~~Director of the OSBI~~
3 Commissioner by mailing a copy of the petition and notice of hearing
4 to the last-known address of each owner.

5 3. Notice of the hearing shall also be posted at the Oklahoma
6 County courthouse at the regular place assigned for the posting of
7 legal notices and in the public lobby at ~~OSBI~~ the headquarters of
8 the Department.

9 4. If no owner appears and establishes ownership to the cash or
10 legal tender, the court shall enter an order authorizing the
11 forfeiture of the funds to the ~~OSBI~~ Department. All monies
12 forfeited shall be deposited into the ~~OSBI~~ Revolving Fund
13 established pursuant to Section 150.19a of this title.

14 C. 1. For disposition of all other seized property, the
15 ~~Director~~ Commissioner shall file a petition in the district court of
16 Oklahoma County requesting authority to conduct a sale of the
17 property. The petition shall include the following information:

- 18 a. description of the property,
- 19 b. approximate date that the property came into the
20 possession of the ~~Director~~ Commissioner, and
- 21 c. the names of the owner or owners, if known.

22 2. Upon the filing of the petition, notice of at least ten (10)
23 days shall be given to each known owner by the ~~Director of the OSBI~~

24

1 Commissioner by mailing a copy of the petition and notice of hearing
2 to the last-known address of each owner.

3 3. Notice of the hearing shall also be posted at the Oklahoma
4 County courthouse at the regular place assigned for the posting of
5 legal notices and in the public lobby at ~~OSBI~~ the headquarters of
6 the Department.

7 4. If no owner appears and establishes ownership to the
8 property, the court shall enter an order authorizing the Director to
9 sell the property to the highest bidder after notice of at least
10 five (5) days of the auction has been given by publication in one
11 issue of a legal newspaper of record in Oklahoma County.

12 5. The ~~Director~~ Commissioner shall make a return of sale, and
13 when confirmed by the court, the order confirming the sale shall
14 vest title of the property to the purchaser. The money received
15 from the sale shall be deposited in the ~~OSBI~~ Revolving Fund
16 established by Section 150.19a of this title.

17 SECTION 58. AMENDATORY 74 O.S. 2001, Section 150.12, as
18 last amended by Section 80, Chapter 16, O.S.L. 2006 (74 O.S. Supp.
19 2006, Section 150.12), is amended to read as follows:

20 Section 150.12 A. 1. It is hereby the duty of any sheriff,
21 chief of police, city marshal, constable and any other law
22 enforcement officer who takes custody of a person who has been
23 arrested and who, in the best judgment of the arresting officer, is
24 believed to have committed any offense, except an offense exempted

1 by the rules promulgated by the ~~Oklahoma State Bureau of~~
2 ~~Investigation~~ Department of Public Safety pursuant to the provisions
3 of Section 150.1 et seq. of this title, to take or cause to be taken
4 the fingerprint impressions of such person or persons and to forward
5 such fingerprint impressions together with identification
6 information to the ~~Oklahoma State Bureau of Investigation~~
7 Department, at its Oklahoma City office. In the case of any
8 sheriff, chief of police, city marshal, constable, or any other law
9 enforcement officer equipped with a live-scan device designed for
10 the electronic capture and transmission of fingerprint images
11 approved by the ~~Oklahoma State Bureau of Investigation~~ Department,
12 fingerprint images may instead be taken and transmitted to the
13 ~~Bureau~~ Department electronically. If the sheriff, chief of police,
14 city marshal, or constable has contracted for the custody of
15 prisoners, such contractor shall be required to take the fingerprint
16 impressions of such person.

17 2. It shall not be the responsibility of, nor shall the
18 sheriff, chief of police, city marshal, constable, other law
19 enforcement officer, or contractor receiving custody of an arrested
20 person as a prisoner require the arresting officer to take the
21 fingerprint impressions of the arrested person; provided, if the
22 arresting officer is employed by the same law enforcement agency as
23 the sheriff, chief of police, city marshal, or constable receiving
24

1 custody of such person, the arresting officer may be required to
2 take such impressions.

3 3. The law enforcement officers shall also forward the
4 prosecution filing report and the disposition report forms to the
5 appropriate prosecuting authority within seventy-two (72) hours. If
6 fingerprint impressions have not been taken at the time of an
7 arrest, the court shall order the fingerprints to be taken by the
8 sheriff at the arraignment, first appearance, or at the time of
9 final adjudication of a defendant whose court attendance has been
10 secured by a summons or citation for any offense, except an offense
11 exempted by the rules promulgated by the ~~Bureau~~ Department. If a
12 person is in the custody of a law enforcement or correctional agency
13 and a warrant issues or an information is filed alleging the person
14 to have committed an offense other than the offense for which the
15 person is in custody, the custodial law enforcement or correctional
16 agency shall take the fingerprints of such person in connection with
17 the new offense, provided the offense is not exempted by the rules
18 of the ~~Bureau~~ Department. Any fingerprint impressions and
19 identification information required by this subsection shall be sent
20 to the ~~Bureau~~ Department within seventy-two (72) hours after taking
21 such fingerprints.

22 B. In order to maintain a complete criminal history record, the
23 court shall inquire at the time of sentencing whether or not the
24 person has been fingerprinted for the offense upon which the

1 sentence is based and, if not, shall order the fingerprints be taken
2 immediately of such person and those fingerprints shall be sent by
3 the law enforcement agency taking the fingerprint impressions to the
4 ~~Bureau~~ Department within seventy-two (72) hours after taking the
5 fingerprint impressions.

6 C. In addition to any other fingerprints which may have been
7 taken of a person in a criminal matter, the Department of
8 Corrections shall take the fingerprints of all prisoners received at
9 the Lexington Reception and Assessment Center or otherwise received
10 into the custody of the Department and shall send copies of such
11 fingerprints together with identification information to the ~~Bureau~~
12 Department of Public Safety within seventy-two (72) hours of taking
13 such fingerprints.

14 D. The ~~Bureau~~ Department of Public Safety shall, upon receipt
15 of fingerprint impressions and identification information for
16 offenses not exempt by rule of the ~~Bureau~~ Department, send one copy
17 of the fingerprint impressions to the Federal Bureau of
18 Investigation, at its Washington, D.C., office, and the other copy
19 shall be filed in the ~~Oklahoma State Bureau of Investigation's~~
20 office of the Department. The rules promulgated by the ~~Bureau~~
21 Department pursuant to the provision of this act exempting certain
22 offenses from mandatory reporting shall be based upon recommended
23 Federal Bureau of Investigation standards for reporting criminal
24 history information and are not intended to include violators of

1 city or town ordinances and great care shall be exercised to exclude
2 the reporting of criminal history information for such offenses,
3 except when recommended by the Federal Bureau of Investigation
4 standards.

5 E. The reporting to the ~~Oklahoma State Bureau of Investigation~~
6 Department of criminal history information on each person subject to
7 the mandatory reporting requirements of Section 150.1 et seq. of
8 this title shall be mandatory for all law enforcement agencies,
9 courts, judicial officials, district attorneys and correctional
10 administrators participating in criminal matters, whether reported
11 directly or indirectly, manually or by automated system as may be
12 provided by the rules promulgated by the ~~Bureau~~ Department.

13 F. Except for offenses exempted by the rules promulgated by the
14 ~~Bureau~~ Department, the following events shall be reported to the
15 ~~Bureau~~ Department within seventy-two (72) hours, and the ~~Bureau~~
16 Department shall have seventy-two (72) hours after receipt of the
17 report to enter such information into a criminal record ~~data base~~
18 database:

- 19 1. An arrest;
- 20 2. The release of a person after arrest without the filing of
21 any charge; and
- 22 3. A decision of a prosecutor not to commence criminal
23 proceedings or to defer or postpone prosecution.

24

1 G. Except for offenses exempted by the rules promulgated by the
2 ~~Bureau~~ Department, the following events shall be reported to the
3 ~~Bureau~~ Department within thirty (30) days, and the ~~Bureau~~ Department
4 shall have thirty (30) days after receipt of the report to enter
5 such information into a criminal record ~~data-base~~ database:

6 1. A decision by a prosecutor to modify or amend initial
7 charges upon which the arrest was made, including deletions or
8 additions of charges or counts;

9 2. The presentment of an indictment or the filing of a criminal
10 information or other statement of charges;

11 3. The dismissal of an indictment or criminal information or
12 any charge specified in such indictment or criminal information;

13 4. An acquittal, conviction or other court disposition at trial
14 or before, during or following trial, including dispositions
15 resulting from pleas or other agreements;

16 5. The imposition of a sentence;

17 6. The commitment to or release from the custody of the
18 Department of Corrections or incarceration in any jail or other
19 correctional facility;

20 7. The escape from custody of any correctional facility, jail
21 or authority;

22 8. The commitment to or release from probation or parole;

23 9. An order of any appellate court;

24

1 10. A pardon, reprieve, commutation of sentence or other change
2 in sentence, including a change ordered by the court;

3 11. A revocation of probation or parole or other change in
4 probation or parole status; and

5 12. Any other event arising out of or occurring during the
6 course of criminal proceedings or terms of the sentence deemed
7 necessary as provided by the rules established by the ~~Bureau~~
8 Department.

9 The ~~Bureau~~ Department of Public Safety shall have authority to
10 withhold any entry on a criminal history record when there is reason
11 to believe the entry is based on error or an unlawful order. The
12 ~~Bureau~~ Department shall in such case take immediate action to
13 clarify or correct the entry.

14 H. Information reportable under the provisions of this section
15 shall be reportable by the law enforcement officer or person
16 directly responsible for the action, event or decision, unless
17 otherwise provided by rule or agreement. The form and content of
18 information to be reported and methods for reporting information,
19 including fingerprint impressions and other identification
20 information, shall be established by the rules promulgated by the
21 ~~Bureau~~ Department. The ~~Bureau~~ Department is hereby directed to
22 establish rules to implement the provisions of Section 150.1 et seq.
23 of this title, provided any rule relating to reporting by courts or
24

1 judicial officials shall be issued jointly by the ~~Bureau~~ Department
2 and the Oklahoma Supreme Court.

3 I. Any person or agency subject to the mandatory reporting of
4 criminal history information or fingerprints as required by the
5 provisions of this act shall take appropriate steps to ensure that
6 appropriate agency officials and employees understand such
7 requirements. Each agency shall establish, and in appropriate cases
8 impose, administrative sanctions for failure of an official or
9 employee to report as provided by law. Refusal or persistent
10 failure of a person or agency to comply with the mandatory reporting
11 requirements of this act may result in the discontinued access to
12 ~~Bureau~~ Department information or assistance until such agency
13 complies with the law.

14 J. All expungement orders which are presented to the ~~Bureau~~
15 Department for alterations to criminal history records must be
16 accompanied by a payment of One Hundred Fifty Dollars (\$150.00)
17 payable to the ~~Bureau~~ Department. The subject of the criminal
18 history, whose record is being amended or updated based upon an
19 expungement order, is responsible for such payment. Payment shall
20 be rendered before any expungement order may be processed by the
21 ~~Bureau~~ Department.

22 SECTION 59. AMENDATORY 74 O.S. 2001, Section 150.12A, is
23 amended to read as follows:

24

1 Section 150.12A A. It shall be the duty of any sheriff, chief
2 of police, city marshal, constable, or any other law enforcement
3 officer, immediately upon receipt of any report of a missing or
4 runaway person, to send one copy of such report to the ~~Oklahoma~~
5 ~~State Bureau of Investigation~~ Department of Public Safety and enter
6 such information, when applicable, to the National Crime Information
7 Center. Within seventy-two (72) hours of location or discovery of
8 the missing or runaway person, the sheriff, chief of police, city
9 marshal, constable, or any other law enforcement officer shall
10 notify the ~~Oklahoma State Bureau of Investigation~~ Department and
11 remove the entry from the National Crime Information Center. Upon
12 location or discovery of the missing or runaway person, the sheriff,
13 chief of police, city marshal, constable or any other law
14 enforcement officer shall immediately make the appropriate entry to
15 the National Crime Information Center in accordance with NCIC
16 standard operating procedures.

17 B. The ~~Oklahoma State Bureau of Investigation~~ Department and
18 the Oklahoma Law Enforcement Telecommunications System shall jointly
19 establish the procedures and guidelines necessary for enacting and
20 maintaining an electronic database for missing and runaway persons
21 in the State of Oklahoma which is compatible with the data
22 collection entry procedures of the National Crime Information
23 Center. The ~~Oklahoma State Bureau of Investigation~~ Department shall
24 establish guidelines for law enforcement officers concerning the

1 collection and dissemination of information concerning missing or
2 runaway persons.

3 C. Whenever a missing or runaway person report regarding a
4 person born in the State of Oklahoma and under eighteen (18) years
5 of age is received by a sheriff, chief of police, city marshal,
6 constable or any other law enforcement officer, and there is reason
7 to believe that the person is the victim of a family abduction, the
8 reporting agency shall notify the ~~Oklahoma State Bureau of~~
9 ~~Investigation~~ Department, the ~~Bureau~~ Department shall immediately
10 notify the State Commissioner of Health that the person has been
11 reported to be missing. The ~~Director of the Oklahoma State Bureau~~
12 ~~of Investigation~~ Commissioner of Public Safety and the State
13 Commissioner of Health shall jointly establish the procedures and
14 forms necessary for the transmittal of information between the
15 ~~Oklahoma State Bureau of Investigation~~ Department of Public Safety
16 and the State Department of Health required pursuant to the
17 provisions of Section 150.1 et seq. of this title.

18 D. The ~~Bureau~~ Department shall establish a program to
19 periodically publicize the names and pictures of missing children
20 along with a missing children hot-line number on OETA.

21 SECTION 60. AMENDATORY 74 O.S. 2001, Section 150.12B, is
22 amended to read as follows:

23 Section 150.12B A. The ~~Oklahoma State Bureau of Investigation~~
24 Department of Public Safety shall provide forms for the reporting of

1 domestic abuse to each person required to submit such reports
2 pursuant to the provisions of Section ~~3 of this act~~ 40.6 of Title 22
3 of the Oklahoma Statutes and shall establish guidelines for the
4 collection and reporting of domestic abuse incident information
5 pursuant to the provisions of the Domestic Abuse Reporting Act.

6 B. ~~The Director of the Oklahoma State Bureau of Investigation~~
7 Commissioner of Public Safety shall compile a monthly and annual
8 statistical report which shall include the number of reported
9 incidents of domestic abuse for each county and for the state as a
10 whole, the types of crime involved in the domestic abuse, the days
11 of the week the incidents occurred, and the hours of the day the
12 incidents occurred. The statistical reports shall not include the
13 names of any of the persons involved in an incident of domestic
14 abuse or any information which would serve to identify such persons
15 as individuals.

16 C. Copies of the monthly and annual statistical reports shall
17 be available to the public upon request.

18 SECTION 61. AMENDATORY 74 O.S. 2001, Section 150.13, is
19 amended to read as follows:

20 Section 150.13 A. ~~The Director of the Oklahoma State Bureau of~~
21 ~~Investigation~~ Commissioner of Public Safety is hereby authorized to
22 appoint, ~~with the approval of the Commission,~~ not to exceed twenty
23 special officers, who shall not be salaried employees of the ~~Bureau~~
24 ~~of Investigation~~ Department but who shall at all times be subject to

1 the orders and directions of the ~~Director~~ Commissioner; provided,
2 that such special officers shall not have authority to enforce any
3 laws except the provisions of the Oklahoma Statutes relating to
4 larceny of domestic animals, livestock or farm and ranch equipment
5 or supplies, with respect to which they shall have the same
6 authority as any other peace officer. These officers shall be known
7 as rangers.

8 B. Rangers shall not receive any compensation or expenses from
9 the State of Oklahoma or any of its departments, agencies or
10 subdivisions for their services. Before the issuance of a special
11 commission each such ranger shall enter into a good and sufficient
12 bond executed by a surety company authorized to do business in the
13 State of Oklahoma in the sum of Two Thousand Five Hundred Dollars
14 (\$2,500.00), and approved by the ~~Director~~ Commissioner, to indemnify
15 all persons against damages accruing as a result of any illegal or
16 unlawful acts on the part of such rangers; provided that all such
17 special commissions shall expire on January 1 of the odd-numbered
18 year after the appointment. The ~~Director~~ Commissioner may renew,
19 suspend or revoke any such special commission at any time.

20 SECTION 62. AMENDATORY 74 O.S. 2001, Section 150.16, is
21 amended to read as follows:

22 Section 150.16 ~~The Oklahoma State Bureau of Investigation~~
23 Department of Public Safety is hereby authorized to own and operate
24 one aircraft and to rent or charter aircraft on a project/mission

1 basis, such rental or charter to last only for the duration of the
2 project/mission. The ~~Bureau~~ Department is also authorized to pay,
3 from any funds available to the ~~Bureau~~ Department, expenses involved
4 in qualifying multiengine and instrument pilots as may be required
5 to accomplish agency responsibilities.

6 SECTION 63. AMENDATORY 74 O.S. 2001, Section 150.17, is
7 amended to read as follows:

8 Section 150.17 A. ~~Effective July 1, 1980, the~~ The Statistical
9 Analysis Division ~~of the present Oklahoma Crime Commission shall be~~
10 ~~transferred to the Oklahoma State Bureau of Investigation~~ shall be a
11 Division within the Department of Public Safety. All unexpended
12 funds, property, records, personnel and any outstanding financial
13 obligations or encumbrances of the ~~Crime Commission~~ Oklahoma State
14 Bureau of Investigation which relate to the Statistical Analysis
15 Division are ~~hereby~~ to be transferred to the ~~Oklahoma State Bureau~~
16 ~~of Investigation~~ Department of Public Safety pursuant to the same
17 schedule and procedures used for transfer of the entire Bureau.

18 B. ~~Effective July 1, 1988, the~~ The personnel transferred from
19 the ~~Oklahoma Crime Commission~~ Statistical Analysis Division to the
20 ~~Oklahoma State Bureau of Investigation~~ Department of Public Safety
21 and persons occupying the position of any such personnel on July 1,
22 1988, shall ~~become~~ remain subject to the provisions of the Merit
23 System of Personnel Administration. All incumbent employees subject
24 to this subsection shall be classified without regard to status or

1 examinations. Such employees shall be granted status in the class
2 of positions to which the employee's position is allocated by the
3 Office of Personnel Management.

4 C. It is the intent of the Legislature that the mission of the
5 Statistical Analysis Division not be changed by this transfer, and
6 that the ~~Oklahoma State Bureau of Investigation~~ Department of Public
7 Safety continue prior cooperative agreements made with the Criminal
8 Justice Agencies of the state.

9 SECTION 64. AMENDATORY 74 O.S. 2001, Section 150.18, is
10 amended to read as follows:

11 Section 150.18 A. There is hereby created an Oklahoma Reward
12 System to be administered by the ~~Oklahoma State Bureau of~~
13 ~~Investigation~~ Department of Public Safety for the purpose of
14 providing a method of disbursing cash awards, referred to as a
15 reward, to persons giving information resulting in the arrest and
16 conviction of a person accused of the commission or attempted
17 commission of a crime.

18 B. The ~~Oklahoma State Bureau of Investigation~~ Department shall
19 implement such procedures and regulations as are necessary to carry
20 out the purposes of this act. Such procedures shall include a
21 method for determining the amount of reward to be offered for
22 information on a crime or series of crimes and which such crimes
23 shall have a reward offered to assist in their solution.

24

1 C. Any person seeking to collect all or part of a reward
2 offered under the provisions of this section shall submit the
3 following information to the ~~Oklahoma State Bureau of Investigation~~
4 Department:

- 5 1. The crime which was committed;
- 6 2. The name of the victim of the crime;
- 7 3. The name of the person arrested and convicted;
- 8 4. The name of the law enforcement agency with which the
9 applicant cooperated; and
- 10 5. A written statement from that law enforcement agency
11 providing details of the extent of the cooperation provided.

12 D. The ~~Oklahoma State Bureau of Investigation~~ Department shall
13 make such additional requirements as deemed necessary to assure
14 proper disbursement of the reward funds. Any person regularly employed
15 as a peace officer, district attorney or assistant district attorney
16 or any member of immediate family shall be prohibited from receiving
17 any cash award from said fund.

18 SECTION 65. AMENDATORY 74 O.S. 2001, Section 150.19a, as
19 amended by Section 3, Chapter 276, O.S.L. 2004 (74 O.S. Supp. 2006,
20 Section 150.19a), is amended to read as follows:

21 Section 150.19a There is hereby created in the State Treasury a
22 revolving fund for the ~~Oklahoma State Bureau of Investigation~~
23 Department of Public Safety to be designated the "~~OSBI~~ Investigation
24 Revolving Fund". The fund shall be a continuing fund, not subject

1 to fiscal year limitations, and shall consist of any monies received
2 from the sale of surplus property, fees and receipts collected
3 pursuant to the Oklahoma Open Records Act, fines, forfeitures, fees,
4 charges, receipts, donations, gifts, bequests, contributions,
5 devises, interagency reimbursements, federal funds unless otherwise
6 provided by federal law or regulation, or any other source. All
7 monies accruing to the credit of said fund are hereby appropriated
8 and may be budgeted and expended by the ~~Oklahoma State Bureau of~~
9 ~~Investigation~~ Department for operating expenses ~~of the Bureau,~~ for
10 the purpose of enforcing and implementing the Oklahoma Reward System
11 ~~pursuant to Section 150.18~~ Sections 150.2 through 152.10 of this
12 title, and to purchase equipment and provide training to law
13 enforcement agencies located in the state, pursuant to Section 62.9
14 of this title. Expenditures from said fund shall be made upon
15 warrants issued by the State Treasurer against claims filed as
16 prescribed by law with the Director of State Finance for approval
17 and payment.

18 SECTION 66. AMENDATORY 74 O.S. 2001, Section 150.21a, is
19 amended to read as follows:

20 Section 150.21a A. The ~~Director of the Oklahoma State Bureau~~
21 ~~of Investigation~~ Commissioner of Public Safety may establish a
22 crimes information unit within the ~~Bureau~~ Department of Public
23 Safety.

24

1 B. With authorization from the ~~Director of the Bureau~~
2 Commissioner, the crimes information unit or any employee of the
3 ~~Bureau~~ Department of Public Safety may:

- 4 1. Investigate organized crime, criminal conspiracies, and
5 threats of violent crime;
- 6 2. Collect information concerning the activity and identity of
7 individuals reasonably believed to be engaged in organized crime,
8 criminal conspiracies, or threatening violent crime;
- 9 3. Analyze collected information and disseminate such
10 information to other law enforcement agencies for the purposes of
11 criminal investigation and crime prevention;
- 12 4. Coordinate the effort of this state with local, state and
13 federal agencies to protect its citizens against organized crime,
14 criminal conspiracies and threats of violent crime by creating a
15 clearinghouse of crime-related information for use by local, state
16 and federal law enforcement agencies; and
- 17 5. Provide training to peace officers of this state concerning
18 the legal collection, preservation and dissemination of crime-
19 related information.

20 C. Release of information compiled pursuant to this section
21 shall be prohibited except for release of information to law
22 enforcement officers and prosecutorial authorities for the purpose
23 of criminal investigation, criminal prosecution, and crime
24 prevention. Unauthorized release or unauthorized use of this

1 information shall be a misdemeanor and shall be punishable by
2 incarceration in the county jail not exceeding one (1) year or a
3 fine not exceeding Fifty Thousand Dollars (\$50,000.00), or by both
4 such fine and imprisonment. As used in this section, "unauthorized
5 release" or "unauthorized use" shall include, but not be limited to,
6 giving the information to any person who is not a law enforcement
7 officer unless necessitated by an ongoing criminal investigation, or
8 release of information to a law enforcement officer who is not
9 engaged in a criminal investigation requiring the information or who
10 is not authorized by his or her agency to receive such information,
11 or release of information in violation of any rules promulgated by
12 the ~~Bureau~~ Department. Information collected and compiled under the
13 authority of this section shall be privileged and not discoverable
14 nor subject to subpoena or order for production issued by any court,
15 other than production in a district court criminal proceeding for
16 the prosecution of crimes which are the subject of the information
17 sought. ~~The Director of OSBI shall make a quarterly report to the~~
18 ~~OSBI Commission of all information collected and compiled under the~~
19 ~~authority of this section.~~

20 SECTION 67. AMENDATORY 74 O.S. 2001, Section 150.21b, as
21 amended by Section 10, Chapter 130, O.S.L. 2004 (74 O.S. Supp. 2006,
22 Section 150.21b), is amended to read as follows:

23 Section 150.21b Notwithstanding any other provisions of law,
24 when the Commissioner of Public Safety ~~has requested the Oklahoma~~

1 ~~State Bureau of Investigation~~ directs the Department of Public
2 Safety to conduct a criminal investigation of any incident involving
3 the use of deadly force by a commissioned officer of the Department
4 of Public Safety while in the official performance of such officer's
5 duties, the Commissioner may use the report and the investigative
6 information and materials in the furtherance of administrative
7 matters within the Department, including, but not limited to, taking
8 personnel actions and conducting internal investigations. Under no
9 circumstances shall ~~an OSBI~~ a report of ~~its~~ the investigation of any
10 incident involving the use of deadly force by a commissioned officer
11 of any law enforcement agency other than the Department of Public
12 Safety be provided to the employing agency for the purpose of or be
13 used by that agency for the purpose of administrative matters or any
14 purpose other than criminal prosecution.

15 SECTION 68. AMENDATORY 74 O.S. 2001, Section 150.22, is
16 amended to read as follows:

17 Section 150.22 A. ~~As of July 1, 1985, the persons employed as~~
18 ~~of June 30, 1985, by the Corporation Commission as~~ The Department of
19 Public Safety shall retain the special motor carrier enforcement
20 officers and ~~as~~ the supervisor officer ~~pursuant to Section 171.1 of~~
21 ~~Title 47 of the Oklahoma Statutes shall be and are ordered~~
22 ~~transferred to the Oklahoma State Bureau of Investigation for the~~
23 purpose of oil and gas theft investigations.

24

1 ~~B. No employee transferred pursuant to this section shall be~~
2 ~~required to accept a lesser grade or salary than presently received~~
3 ~~plus any salary adjustments provided by the Legislature for state~~
4 ~~employees. No entrance examination shall be required for the~~
5 ~~persons so transferred.~~

6 ~~C. All such persons shall retain all leave, sick or annual, and~~
7 ~~any retirement benefits which have accrued during their tenure with~~
8 ~~the Commission.~~

9 SECTION 69. AMENDATORY 74 O.S. 2001, Section 150.23, as
10 last amended by Section 3, Chapter 169, O.S.L. 2005 (74 O.S. Supp.
11 2006, Section 150.23), is amended to read as follows:

12 Section 150.23 A. An officer, investigator, or agent of the
13 ~~Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of~~
14 ~~Narcotics and Dangerous Drugs Control,~~ the Department of Wildlife
15 Conservation, the Law Enforcement Division of the Oklahoma Horse
16 Racing Commission, ~~the State Fire Marshal's Office,~~ the Oklahoma
17 Tourism and Recreation Department, or the office of a district
18 attorney shall be entitled to receive, upon retirement by reason of
19 length of service, the continued custody and possession of the
20 sidearm and badge carried by such officer, investigator, or agent
21 immediately prior to retirement.

22 B. An officer, investigator, or agent specified in subsection A
23 of this section may be entitled to receive, upon retirement by
24 reason of disability, the continued custody and possession of the

1 sidearm and badge carried by such officer or agent immediately prior
2 to retirement upon written approval of the applicable Director of
3 the appropriate ~~Bureau~~, Department, Commission, or district
4 attorney.

5 C. Custody and possession of the sidearm and badge of an
6 officer, investigator, or agent who dies while employed by any
7 ~~Bureau~~, Department, Commission, or office specified in subsection A
8 of this section may be awarded by the applicable Director of the
9 appropriate ~~Bureau~~, Department, Commission, or office to the spouse
10 or next-of-kin of the deceased officer, investigator, or agent.

11 SECTION 70. AMENDATORY 74 O.S. 2001, Section 150.24, is
12 amended to read as follows:

13 Section 150.24 ~~On or before January 1, 1991, there~~ There shall
14 be established within the ~~Oklahoma State Bureau of Investigation~~
15 Department of Public Safety a computerized fingerprint
16 identification system (AFIS). The ~~Oklahoma State Bureau of~~
17 ~~Investigation~~ Department shall coordinate the use of this system and
18 equipment with federal, state, county, and municipal law enforcement
19 agencies. All county sheriff departments and all police departments
20 for municipalities may participate in this system. The ~~Oklahoma~~
21 ~~State Bureau of Investigation~~ Department shall establish standards
22 and guidelines for fingerprinting for the automated fingerprint
23 identification system. The ~~Oklahoma State Bureau of Investigation~~

24

1 Department may place any fingerprint received by the ~~Bureau~~
2 Department for any purpose in its AFIS database.

3 SECTION 71. AMENDATORY 74 O.S. 2001, Section 150.25, as
4 amended by Section 4, Chapter 276, O.S.L. 2004 (74 O.S. Supp. 2006,
5 Section 150.25), is amended to read as follows:

6 Section 150.25 There is hereby created in the State Treasury a
7 revolving fund for the ~~Oklahoma State Bureau of Investigation~~
8 Department of Public Safety, to be designated the "A.F.I.S. Fund".
9 The fund shall be a continuing fund, not subject to fiscal year
10 limitations, and shall consist of all monies received by the
11 ~~Oklahoma State Bureau of Investigation~~ Department, from
12 appropriations, federal grants and assessments levied to said fund
13 pursuant to law. All monies accruing to the credit of said fund are
14 hereby appropriated and shall be budgeted and expended by the
15 ~~Oklahoma State Bureau of Investigation~~ Department for the purpose of
16 maintaining and operating the Automated Fingerprint Identification
17 System (A.F.I.S.) until the indebtedness for the purchase of the
18 automated fingerprint identification system equipment has been
19 satisfied and to purchase equipment and provide training to law
20 enforcement agencies located in the state, pursuant to Section 62.9
21 of this title. After the indebtedness has been satisfied, any
22 monies not necessary for the maintenance, operating and upgrading
23 expenses of the A.F.I.S. may be used for purchase, renovation or
24 leasing of buildings, upgrading of laboratory equipment, and other

1 capital expenditures of the ~~Oklahoma State Bureau of Investigation~~
2 Department and to purchase equipment and provide training to law
3 enforcement agencies located in the state, pursuant to Section 62.9
4 of this title. Expenditures from said fund shall be made upon
5 warrants issued by the State Treasurer against claims filed as
6 prescribed by law with the Director of State Finance for approval
7 and payment.

8 SECTION 72. AMENDATORY 74 O.S. 2001, Section 150.26, is
9 amended to read as follows:

10 Section 150.26 ~~The Director of the Oklahoma State Bureau of~~
11 ~~Investigation~~ Commissioner of Public Safety shall establish the
12 procedures and forms necessary for the transmittal of information
13 between the ~~Oklahoma State Bureau of Investigation~~ Department of
14 Public Safety and participating law enforcement and criminal justice
15 agencies.

16 SECTION 73. AMENDATORY 74 O.S. 2001, Section 150.27, as
17 last amended by Section 3, Chapter 303, O.S.L. 2006 (74 O.S. Supp.
18 2006, Section 150.27), is amended to read as follows:

19 Section 150.27 A. There shall be established within the
20 ~~Oklahoma State Bureau of Investigation (OSBI)~~ Department of Public
21 Safety a deoxyribonucleic acid (DNA) laboratory for the purpose of
22 determining DNA profiles to be used for evidence in criminal
23 proceedings. The ~~OSBI~~ Department shall coordinate the use of this
24 laboratory and equipment with federal, state, county, and municipal

1 law enforcement agencies. All county sheriff departments and all
2 police departments for municipalities may participate in this
3 laboratory. The ~~OSBI~~ Department shall establish standards and
4 guidelines for the deoxyribonucleic acid (DNA) laboratory and shall
5 comply with any regulations applicable to DNA testing, sampling and
6 laboratory standards.

7 B. The ~~OSBI~~ Department may make a DNA profile of any blood or
8 saliva specimen received for any other purpose by the ~~Bureau~~
9 Department and place the DNA profile in its DNA population database.
10 The DNA population database shall not be indexed by donor name, and
11 the ~~Bureau~~ Department shall promulgate rules to protect the privacy
12 of the DNA donors.

13 C. The ~~OSBI~~ Department may contract for the services of a
14 Forensic DNA Technical Manager as reasonably necessary to ensure the
15 continued operations of the DNA laboratory. The ~~OSBI~~ Department
16 shall be exempt from the competitive bidding requirements of the
17 Oklahoma Central Purchasing Act for the purpose of soliciting,
18 negotiating, and effectuating such a contract or contracts.

19 SECTION 74. AMENDATORY 74 O.S. 2001, Section 150.27a, as
20 last amended by Section 5, Chapter 441, O.S.L. 2005 (74 O.S. Supp.
21 2006, Section 150.27a), is amended to read as follows:

22 Section 150.27a A. There is hereby established within the
23 ~~Oklahoma State Bureau of Investigation~~ the ~~OSBI~~ Department of Public
24 Safety the Combined DNA Index System (CODIS) Database for the

1 purpose of collecting and storing blood or saliva samples and DNA
2 profiles, analyzing and typing of the genetic markers contained in
3 or derived from DNA, and maintaining the records and samples of DNA
4 of individuals convicted of any felony offense, and of individuals
5 required to register pursuant to the Sex Offenders Registration Act.
6 The purpose of this database is the detection or exclusion of
7 individuals who are subjects of the investigation or prosecution of
8 sex-related crimes, violent crimes, or other crimes in which
9 biological evidence is recovered, and such information shall be used
10 for no other purpose.

11 B. Any DNA specimen taken in good faith by the Department of
12 Corrections, its employees or contractors, and submitted to the ~~OSBI~~
13 Department of Public Safety may be included, maintained, and kept by
14 the ~~OSBI~~ Department of Public Safety in a database for criminal
15 investigative purposes despite the specimen having not been taken in
16 strict compliance with the provisions of this section or Section
17 991a of Title 22 of the Oklahoma Statutes.

18 C. Upon the request to ~~OSBI~~ the Department of Public Safety by
19 the federal or state authority having custody of the person, any
20 individual who was convicted of violating laws of another state or
21 the federal government, but is currently incarcerated or residing in
22 Oklahoma, shall submit to DNA profiling for entry of the data into
23 the ~~OSBI~~ DNA Offender Database. This provision shall only apply
24 when such federal or state conviction carries a requirement of sex

1 offender registration and/or DNA profiling. The person to be
2 profiled shall pay a fee of One Hundred Fifty Dollars (\$150.00) to
3 the ~~OSBI~~ Department of Public Safety.

4 D. The ~~OSBI~~ Combined DNA Index System (CODIS) Database is
5 specifically exempt from any statute requiring disclosure of
6 information to the public. The information contained in the
7 database is privileged from discovery and inadmissible as evidence
8 in any civil court proceeding. The information in the database is
9 confidential and shall not be released to the public. Any person
10 charged with the custody and dissemination of information from the
11 database shall not divulge or disclose any such information except
12 to federal, state, county or municipal law enforcement or criminal
13 justice agencies. Any person violating the provisions of this
14 section upon conviction shall be deemed guilty of a misdemeanor
15 punishable by imprisonment in the county jail for not more than one
16 (1) year.

17 E. The ~~OSBI~~ Department of Public Safety shall promulgate rules
18 concerning the collection, storing, expungement and dissemination of
19 information and samples for the ~~OSBI~~ Combined DNA Index System
20 (CODIS) Database. The ~~OSBI~~ Department of Public Safety shall
21 determine the type of equipment, collection procedures, and
22 reporting documentation to be used by the Department of Corrections
23 or a county sheriff's office in submitting DNA samples to the ~~OSBI~~
24 Department of Public Safety in accordance with Section 991a of Title

1 22 of the Oklahoma Statutes. The ~~OSBI~~ Department of Public Safety
2 shall provide training to designated employees of the Department of
3 Corrections and a county sheriff's office in the proper methods of
4 performing the duties required by this section.

5 F. The ~~OSBI~~ Combined DNA Index System (CODIS) Database may
6 include secondary databases and indexes including, but not limited
7 to:

8 1. Forensic index database consisting of unknown evidence
9 samples;

10 2. Suspect index database consisting of samples taken from
11 individuals as a result of criminal investigations;

12 3. Convicted offender index database authorized pursuant to
13 subsection A of this section; and

14 4. Missing persons and unidentified remains index or database
15 consisting of DNA profiles from unidentified remains and relatives
16 of missing persons.

17 G. Any person convicted of an offense provided in this section
18 who is in custody after July 1, 1996, shall provide a blood or
19 saliva sample prior to release. Every person who is convicted of an
20 offense provided in this section whose sentence does not include a
21 term of incarceration shall provide a blood or saliva sample as a
22 condition of sentence.

23 SECTION 75. AMENDATORY 74 O.S. 2001, Section 150.28, is
24 amended to read as follows:

1 Section 150.28 ~~The Director of the Oklahoma State Bureau of~~
2 ~~Investigation~~ Commissioner of Public Safety shall establish the
3 procedures, methods and forms necessary for the acquisition or
4 transmittal of specimens and information between the ~~Oklahoma State~~
5 ~~Bureau of Investigation~~ Department of Public Safety and
6 participating law enforcement and criminal justice agencies.

7 SECTION 76. AMENDATORY 74 O.S. 2001, Section 150.29, is
8 amended to read as follows:

9 Section 150.29 ~~The Oklahoma State Bureau of Investigation~~
10 Department of Public Safety is hereby given authority to create a
11 petty cash fund not to exceed Two Hundred Dollars (\$200.00) for ~~each~~
12 any office of the Oklahoma State Bureau of Investigation Department
13 that provides criminal history record checks and other open record
14 search and copy fees, which may be expended for the purpose of
15 providing change for cash payments for criminal history record
16 checks and other Oklahoma Open Records Act search and copy fees.

17 SECTION 77. AMENDATORY 74 O.S. 2001, Section 150.30, is
18 amended to read as follows:

19 Section 150.30 Any audit including, but not limited to, a
20 financial statement audit performed by the State Auditor and
21 Inspector's Office or an independent licensed public accountant on
22 the funds, accounts, vouchers and books and fiscal affairs of the
23 ~~Oklahoma State Bureau of Investigation~~ Department of Public Safety
24 shall include an audit of the petty cash fund created pursuant to

1 the provisions of ~~the section~~ Section 150.29 of this title,
2 detailing the various items of receipts and expenditures of the
3 fund.

4 SECTION 78. AMENDATORY 74 O.S. 2001, Section 150.31, is
5 amended to read as follows:

6 Section 150.31 ~~The Oklahoma State Bureau of Investigation~~
7 Department of Public Safety may promulgate rules and establish
8 procedures for the business operations of the ~~Bureau~~ Department
9 under the Oklahoma Open Records Act. The ~~Bureau~~ Department is
10 hereby granted the authority to establish policies and procedures
11 for creating accounts receivable for individuals, corporations, and
12 government agencies for providing copies of its open records in
13 advance of payment, including the providing of criminal history
14 information and related services.

15 SECTION 79. AMENDATORY 74 O.S. 2001, Section 150.32, is
16 amended to read as follows:

17 Section 150.32 A. There is hereby established the "Firearms
18 Laboratory Improvement Fund". The Fund shall be a continuing fund
19 for the ~~Oklahoma State Bureau of Investigation~~ Department of Public
20 Safety. The Fund shall not be subject to fiscal year limitations
21 and shall consist of monies received from all state agencies which
22 seize assets pursuant to the Uniform Controlled Dangerous Substances
23 Act during the fiscal year ending June 30, 1994. Each agency's
24 contribution shall be determined on a pro rata basis based on the

1 percentage of forfeitures collected by the agency during the fiscal
2 year ending June 30, 1993, in relation to the total monetary value
3 of all forfeitures collected by all agencies contributing to the
4 Fund. The amount each agency is to contribute shall be determined
5 by the Director of State Finance and the Cabinet Secretary for
6 Safety and Security. Funds shall be transferred pursuant to a time
7 schedule established by the Director of State Finance and the
8 Cabinet Secretary for Safety and Security, but all such funds shall
9 be transferred as available. The total amount of money to be paid
10 into the Fund shall not exceed One Hundred Forty-five Thousand
11 Dollars (\$145,000.00). Funds collected in the Drugfire Project Fund
12 during the 1994 fiscal year shall be carried over into the Firearms
13 Laboratory Improvement Fund. Expenditures from the Fund shall be
14 made upon warrants issued by the State Treasurer against claims
15 filed as prescribed by law with the Director of State Finance for
16 approval and payment.

17 B. The Firearms Laboratory Improvement Fund shall be used to
18 upgrade the firearms laboratory services of the ~~Oklahoma State~~
19 ~~Bureau of Investigation~~ Department of Public Safety criminalistics
20 laboratory. Expenditures from the Fund shall be used only for
21 training of personnel, matching funds for federal grants to obtain
22 laboratory instrumentation, the purchase of laboratory
23 instrumentation and equipment, and to upgrade existing laboratory
24 instrumentation and equipment. If the Firearms Laboratory

1 Improvement Fund is not expended by June 30, 1996, funds contributed
2 by agencies shall be repaid to the agencies.

3 SECTION 80. AMENDATORY 74 O.S. 2001, Section 150.34, is
4 amended to read as follows:

5 Section 150.34 Of the full-time-equivalent employees authorized
6 for the ~~Oklahoma State Bureau of Investigation~~ Department of Public
7 Safety, one senior agent shall be employed for the purpose of
8 conducting judicial background investigations requested by the
9 Judicial Nominating Commission. When not conducting investigations
10 for the Judicial Nominating Commission, the senior agent may be
11 involved in investigations as requested by the Council on Judicial
12 Complaints and in other investigations as deemed appropriate by the
13 ~~Director of the Oklahoma State Bureau of Investigation~~ Commissioner
14 of Public Safety; provided, however, the first priority of the agent
15 will be to respond to requests of the Commission.

16 SECTION 81. AMENDATORY 74 O.S. 2001, Section 150.35, as
17 amended by Section 5, Chapter 276, O.S.L. 2004 (74 O.S. Supp. 2006,
18 Section 150.35), is amended to read as follows:

19 Section 150.35 There is hereby created in the State Treasury a
20 revolving fund for the ~~Oklahoma State Bureau of Investigation~~
21 Department of Public Safety to be designated the "Forensic Science
22 Improvement Revolving Fund". The fund shall be a continuing fund,
23 not subject to fiscal year limitations, and shall consist of all
24 appropriated funds, any funds from state, federal or other grants,

1 the funds collected from assessments provided by Section 1313.4 of
2 Title 20 of the Oklahoma Statutes, ~~any monies transferred from the~~
3 ~~OSBI Revolving Fund~~, and any other monies designated to or deposited
4 to the benefit of this fund. All monies accruing to the credit of
5 this fund are hereby appropriated and may be budgeted and expended
6 by the ~~Oklahoma State Bureau of Investigation~~ Department for the
7 purpose of improvement of the forensic science services of the
8 ~~Oklahoma State Bureau of Investigation~~ Department including, but not
9 limited to:

- 10 1. Purchase, construction, renovation, financing or leasing of
11 facilities and equipment;
- 12 2. Purchase, rental, upgrades, repair, and maintenance of
13 instrumentation and equipment;
- 14 3. Salaries, benefits, training, equipment, supplies, and
15 overhead expenses for agency personnel;
- 16 4. Education, training and development of ~~OSBI~~ Department
17 personnel;
- 18 5. Destruction of seized property and chemicals;
- 19 6. Accreditation and quality assurance expenses;
- 20 7. Professional services contracts;
- 21 8. Purchase equipment and provide training to law enforcement
22 agencies located in this state, pursuant to Section 62.9 of this
23 title; and
- 24 9. Enhancement or implementation of forensic technologies.

1 Expenditures from the fund shall be made upon warrants issued by
2 the State Treasurer against claims filed as prescribed by law with
3 the Director of State Finance for approval and payment.

4 SECTION 82. AMENDATORY Section 2, Chapter 326, O.S.L.
5 2006 (74 O.S. Supp. 2006, Section 150.38), is amended to read as
6 follows:

7 Section 150.38 A. Subject to the availability of funds, there
8 is hereby established within the ~~Oklahoma State Bureau of~~
9 ~~Investigation~~ Department of Public Safety, the Child Abuse Response
10 Team (CART) for the purpose of investigating cases of physical and
11 sexual abuse of a child. For the purpose of implementing CART, the
12 ~~Bureau~~ Department shall employ at least one Child Abuse Response
13 Team (CART) investigator and at least one Child Abuse Response Team
14 (CART) forensic interviewer which shall be full-time-equivalent
15 positions within the ~~Bureau~~ Department compensated at the same pay
16 rate as a senior level investigator agent.

17 B. In addition to any other law or rule specifying requirements
18 or qualifications for an OSBI agent to be employed by the ~~Bureau~~
19 Department, the Child Abuse Response Team employees shall be
20 qualified for the respective positions as follows:

21 1. Every CART investigator shall:

- 22 a. have at least five (5) ~~years~~ years of experience as a
23 law enforcement officer or criminal investigator in a
24

- 1 law enforcement agency or agencies with preference
2 given to additional years in law enforcement,
3 b. be currently certified as a peace officer by the
4 Council on Law Enforcement Education and Training
5 (CLEET),
6 c. have served as the primary criminal investigative
7 officer in a law enforcement agency or agencies with
8 experience as the primary investigative officer on at
9 least five hundred cases of physical or sexual abuse
10 of a child,
11 d. have graduated from an accredited college or
12 university with a bachelor degree with preference
13 given to a post-graduate degree, and
14 e. be not currently employed by the ~~Oklahoma State Bureau~~
15 ~~of Investigation~~ Department of Public Safety, nor
16 employed by such agency within the previous six (6)
17 months immediately preceding an application for the
18 position of CART investigator.

19 2. Every CART forensic interviewer shall:

- 20 a. have experience in conducting forensic interviews and
21 shall have conducted a minimum of five hundred child
22 forensic interviews in cases of physical or sexual
23 abuse of a child,
24

- 1 b. have graduated from an accredited college or
2 university with a bachelor degree with preference
3 given to a post-graduate degree,
- 4 c. have experience as an expert witness and shall have
5 been certified as an expert witness in cases of
6 physical or sexual abuse of a child in at least
7 twenty-five legal proceedings in a court of competent
8 jurisdiction,
- 9 d. have completed at least one hundred (100) hours of
10 education or training on forensic interviewing of a
11 child, and
- 12 e. be not currently employed by the ~~Oklahoma State Bureau~~
13 ~~of Investigation~~ Department of Public Safety, nor
14 employed by such agency within the previous six (6)
15 months immediately preceding an application for the
16 position of CART forensic interviewer.

17 3. If the ~~director~~ Commissioner of the ~~Oklahoma State Bureau of~~
18 ~~Investigation~~ Public Safety is unable to find a person whose
19 qualifications meet or exceed the qualifications specified for the
20 position of CART investigator or CART forensic interviewer, the
21 ~~director~~ Commissioner is authorized to offer such position to a
22 person whose qualifications substantially meet the qualifications
23 specified for the position.

1 C. The ~~Bureau~~ Department may promulgate rules, procedures and
2 forms necessary to establish and implement the functions of the
3 Child Abuse Response Team and to coordinate responsibilities with
4 other persons or agencies having responsibilities relating to child
5 abuse investigation and response to child abuse.

6 SECTION 83. AMENDATORY Section 3, Chapter 183, O.S.L.
7 2006 (74 O.S. Supp. 2006, Section 151.1), is amended to read as
8 follows:

9 Section 151.1 ~~The Oklahoma State Bureau of Investigation~~
10 Department of Public Safety shall establish an Internet Crimes
11 Against Children (ICAC) unit for the primary purpose of
12 investigating Internet crimes committed against children, including,
13 but not limited to, offenses related to child pornography and
14 solicitation of minors for pornography, prostitution or sex-related
15 offenses. The unit shall additionally promote safe Internet use
16 among children and their parents by various media or printed-
17 material campaigns or by offering educational programs to schools or
18 communities throughout this state. The ~~Bureau~~ Department shall
19 employ sufficient employees to investigate and implement the ICAC
20 unit.

21 SECTION 84. AMENDATORY 74 O.S. 2001, Section 152.2, is
22 amended to read as follows:

23 Section 152.2 For purposes of this act:
24

- 1 1. ~~"Bureau" means the Oklahoma State Bureau of Investigation~~
2 "Commissioner" means the Commissioner of Public Safety;
- 3 2. ~~"Director" means the Director of the Oklahoma State Bureau~~
4 ~~of Investigation~~ "Department" means the Department of Public Safety;
- 5 3. "Person" means any individual, copartnership, corporation,
6 common law or statutory trust or association of whatever character;
- 7 4. "Oil" means crude petroleum oil, and any other hydrocarbons,
8 regardless of gravity, which are produced at the well in liquid form
9 by ordinary production methods;
- 10 5. "Oil reclaimer" means any person who reclaims, salvages, or
11 in any manner removes or extracts oil from the waste products
12 associated with the production, storage, and transportation of oil,
13 including but not limited to salt water, and the residue from oil
14 storage tank bottoms;
- 15 6. "Load ticket" means an invoice or other shipping paper
16 described and required by Section 1013 of Title 68 of the Oklahoma
17 Statutes or other manifest required by state or federal law
18 describing the cargo;
- 19 7. "Gas" means natural gas, including casinghead gas, and any
20 and all other hydrocarbons not defined as oil;
- 21 8. "Unlawful oil" means any oil transported or taken in
22 violation of any law of this state;
- 23 9. "Unlawful gas" means gas transported or taken in violation
24 of any law of this state;

1 10. "Transportation" or "transport" means the movement of oil
2 or gas or salt water by any vehicle in this state. The term does
3 not include movement by railroad tank car or by pipeline. The term
4 transportation or transport shall not apply to the transportation of
5 oil or gas when such oil or gas is contained in the ordinary
6 equipment of a motor vehicle and is used only for the operation of
7 the motor vehicle in which contained;

8 11. "Transporter" means any person who actually transports oil
9 or gas or salt water in any vehicle on any road, street, or highway
10 in this state;

11 12. "Vehicle" means every device in, upon, or in which any
12 person or property is or may be transported or drawn; and

13 13. "Oil field equipment" means equipment or machinery used in
14 the exploration for, production of, or transportation of oil or gas.

15 SECTION 85. AMENDATORY 74 O.S. 2001, Section 152.3, is
16 amended to read as follows:

17 Section 152.3 In addition to the other powers and duties of the
18 ~~Bureau~~ Department of Public Safety provided by law, the ~~Bureau~~
19 Department shall have the power and duty to:

20 1. Review records from any oil reclaimer to ensure that oil is
21 not stolen; and

22 2. To enter upon any public or private property to conduct
23 inspections at reasonable hours to ensure that any operation of an
24 oil reclaiming facility is not a conduit for unlawful oil and for

1 the purpose of investigating oil or gas theft operations and to take
2 necessary action if any operation is found to be a conduit for
3 stolen oil or gas; and

4 3. Advise, consult, and cooperate with other agencies of this
5 state, the federal government, other states and interstate agencies,
6 and with affected groups and political subdivisions concerning oil
7 reclaiming operations, the transportation of unlawful oil and
8 unlawful gas and stolen oil field equipment; and

9 4. Institute and maintain or intervene in any action or
10 proceeding where deemed necessary by the ~~Bureau~~ Department to ensure
11 that any operation of an oil reclaiming facility is not a conduit
12 for unlawful oil or for the purpose of prosecuting persons involved
13 in oil field equipment theft; and

14 5. Conduct investigations of organized oil or gas theft rings
15 and stolen oil field equipment rings; and

16 6. Determine sources and outlets for unlawful oil or unlawful
17 gas or stolen oil field equipment; and

18 7. Stop any vehicle transporting or appearing to transport any
19 oil or gas or salt water, for the purpose of inspecting, measuring,
20 and taking samples of the cargo and inspecting load tickets to
21 ensure that such vehicle is not transporting unlawful gas or
22 unlawful oil; and

23 8. Investigate any theft of oil or gas or oil field equipment
24 of which the agency receives notice; and

1 9. Arrest or cause the arrest of any person when reasonable
2 grounds exist to believe such person has unlawful oil, unlawful gas
3 or stolen oil field equipment; and

4 10. Coordinate the efforts of this state to reduce oil, gas and
5 oil field equipment theft with local, state, and federal law
6 enforcement agencies; and

7 11. Develop educational programs on detection and prevention of
8 oil, gas and oil field equipment theft; and

9 12. Exercise all incidental powers necessary and proper for the
10 administration and enforcement of the provisions of this act.

11 SECTION 86. AMENDATORY 74 O.S. 2001, Section 152.4, is
12 amended to read as follows:

13 Section 152.4 The ~~Director~~ Commissioner of Public Safety,
14 investigators, and any other agent of the ~~Bureau~~ Department of
15 Public Safety shall have the right at all times to go upon property
16 where oil is being reclaimed in order to inspect, gauge, or take
17 samples from pipelines, tank farms, pump stations, and any and all
18 other facilities used for the reclamation of oil.

19 SECTION 87. AMENDATORY 74 O.S. 2001, Section 152.5, is
20 amended to read as follows:

21 Section 152.5 A. All monies received from fines and
22 forfeitures for violations of the provisions of this act on behalf
23 of the ~~Bureau~~ Department of Public Safety, when collected by the
24 court clerk, shall be deposited by such clerk as follows:

1 1. Fifty percent (50%) thereof with the county treasurer to be
2 credited to the general fund of the county and so reported; and

3 2. Fifty percent (50%) shall be transmitted to the Oil and Gas
4 Theft Recovery Fund by cash voucher and so reported.

5 B. All transmittals of monies under this section shall be
6 accompanied by a report showing the name of the court, the number of
7 the case, the style of the case and the amount of fine and
8 forfeiture in each separate instance.

9 C. There is hereby created in the State Treasury a revolving
10 fund for the ~~Bureau~~ Department, to be designated the "Oil and Gas
11 Theft Recovery Revolving Fund". The fund shall be a continuing
12 fund, not subject to fiscal year limitations, and shall consist of
13 all monies received by the ~~Bureau~~ Department, from fines and
14 forfeitures received pursuant to this act. All monies accruing to
15 the credit of said fund are hereby appropriated and may be budgeted
16 and expended by the ~~Bureau~~ Department for the purpose of
17 effectuating the provisions of this act. Expenditures from said
18 fund shall be made upon warrants issued by the State Treasurer
19 against claims filed as prescribed by law with the Director of State
20 Finance for approval and payment.

21 SECTION 88. AMENDATORY 74 O.S. 2001, Section 152.6, is
22 amended to read as follows:

23 Section 152.6 A. Each agent of the ~~Oklahoma State Bureau of~~
24 ~~Investigation~~ Department of Public Safety, each agent of the Federal

1 Bureau of Investigation, each highway patrolman and each sheriff in
2 this state is authorized to stop any vehicle transporting or
3 appearing to transport oil or gas or salt water, for the purpose of
4 inspecting, measuring, and taking samples of the cargo and
5 inspecting the load ticket of such vehicle to ensure that the cargo
6 conforms to such load ticket. Except as authorized in subsection B
7 of this section, upon stopping any vehicle pursuant to this section,
8 such patrolmen, agents, or sheriffs are not authorized to take any
9 samples of the cargo of such vehicle until the vehicle arrives at
10 its destination as indicated on its load ticket.

11 B. Such patrolmen, agents, or sheriffs may take samples of the
12 cargo of such vehicle if the vehicle has an out-of-state destination
13 as indicated on its load ticket or if no destination is indicated on
14 the load ticket.

15 C. A rebuttable presumption that the cargo is unlawful oil or
16 unlawful gas and probable cause for the arrest of any person
17 transporting oil or gas or salt water and the seizure of the vehicle
18 and the oil or gas transported in the vehicle pursuant to Section 7
19 152.8 of this ~~act~~ title shall be established if:

20 1. The person transporting oil or gas or salt water fails to
21 produce the load ticket upon proper request therefor;

22 2. The load ticket does not contain such information so as to
23 describe or otherwise evidence the cargo as required by state or
24 federal laws; or

1 3. The inspection, measuring, or taking samples of said oil or
2 gas or salt water reveals that the contents of the vehicle are not
3 the same as those described in the load ticket.

4 SECTION 89. AMENDATORY Section 1, Chapter 339, O.S.L.
5 2002 (74 O.S. Supp. 2006, Section 152.10), is amended to read as
6 follows:

7 Section 152.10 ~~The Oklahoma State Bureau of Investigation~~
8 Department of Public Safety, subject to the availability of funds,
9 shall be granted an additional two full-time-equivalent employees to
10 be employed for the exclusive purpose of conducting oil field theft
11 and fraud investigations except in cases of emergency.

12 SECTION 90. REPEALER 63 O.S. 2001, Section 2-102,
13 Section 8, Chapter 83, 2nd Extraordinary Session, O.S.L. 2006 and
14 Section 2-104.1, as last amended by Section 4, Chapter 229, O.S.L.
15 2003 (63 O.S. Supp. 2006, Sections 2-103a and 2-104.1), are hereby
16 repealed.

17 SECTION 91. REPEALER 74 O.S. 2001, Sections 150.1,
18 150.3, as last amended by Section 7, Chapter 229, O.S.L. 2003,
19 150.6, as amended by Section 14, Chapter 199, O.S.L. 2003, 150.6a,
20 as amended by Section 10, Chapter 83, 2nd Extraordinary Session,
21 O.S.L. 2006, 150.8, as amended by Section 2, Chapter 347, O.S.L.
22 2002 and 150.21, as amended by Section 3, Chapter 42, O.S.L. 2002
23 (74 O.S. Supp. 2006, Sections 150.3, 150.6, 150.6a, 150.8 and
24 150.21), are hereby repealed.

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SECTION 92. This act shall become effective November 1, 2007.

51-1-5210 GRS 01/17/07