

ENROLLED HOUSE  
BILL NO. 2250

By: Terrill, Tibbs and  
Blackwell of the House

and

Sykes, Paddock and Schulz  
of the Senate

An Act relating to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; amending 20 O.S. 2001, Section 1313.2, as last amended by Section 2, Chapter 437, O.S.L. 2008 (20 O.S. Supp. 2008, Section 1313.2), which relates to fee assessments for felony and misdemeanor convictions; deleting fee assessment for certain conviction; clarifying certain fee retention procedure; adding fee assessment for convictions of certain crimes; directing the deposit of fees; providing for the remittance of fee into certain revolving fund; amending 63 O.S. 2001, Sections 2-106, as amended by Section 10, Chapter 170, O.S.L. 2008, Section 1, Chapter 437, O.S.L. 2008, 2-310, 2-410, as amended by Section 1, Chapter 308, O.S.L. 2008, 2-411, 2-503, as last amended by Section 5, Chapter 223, O.S.L. 2007, Section 1, Chapter 170, O.S.L. 2008, Section 9, Chapter 170, O.S.L. 2008, 2-506, as last amended by Section 4, Chapter 248, O.S.L. 2007 and 2-508, as last amended by Section 16, Chapter 168, O.S.L. 2004 (63 O.S. Supp. 2008, Sections 2-106, 2-107a, 2-410, 2-503, 2-503.1a, 2-503.li, 2-506 and 2-508), which relate to the Uniform Controlled Dangerous Substances Act; authorizing the purchase and maintenance of vehicles and equipment; modifying statutory reference; creating the Drug Money Laundering and Wire Transmitter Revolving Fund; providing for funding of revolving fund; authorizing expenditures from revolving fund for certain purposes; updating language; prohibiting consideration for deferred judgment and expungement proceedings due to violating provisions of certain act; modifying and increasing

certain penalty; modifying scope of certain property forfeiture provision; redirecting forfeiture proceeds to certain fund; authorizing Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to enter into certain agreements with additional agencies; deleting authority to expend certain funds; updating statutory references; authorizing issuance of warrants for property seizure purposes; authorizing State Banking Commissioner to issue emergency notices under certain circumstances; providing for emergency appeals; providing time limitation for freezing accounts; providing exceptions; requiring certain licensees to collect transaction fees; requiring remittance of fee to the Oklahoma Tax Commission; providing for apportionment of certain revenues; requiring licensees to post certain notice; providing enforcement powers to the Oklahoma Tax Commission; providing procedures for the suspension of certain licenses; authorizing State Banking Commissioner to make certain claims; authorizing Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to provide certain assistance to the Oklahoma Tax Commission; providing venue for the prosecution of certain offenses; defining terms; authorizing district attorney to enter into certain agreement with tribal agencies; modifying statutory references; authorizing agencies to dispose of certain property when no longer needed for litigation purposes; modifying property disposition procedures to include certain agencies; modifying notice requirements for property valued at certain amount; deleting certain rule promulgation requirement; deleting certain forfeiture procedural requirements for specified agencies; authorizing the transfer, donation or lease of certain property to tribal law enforcement agencies and campus police departments; allowing transfer of certain property to state and tribal agencies or school districts; requiring written agreement when transferring certain property to school districts; prohibiting transfer of weapons to school district except under certain circumstances; providing certain tax credit for taxes imposed on electronic funds transfer fees; providing procedures and date limitations for persons making a claim for certain tax credits; providing limitations on use of

tax credit; authorizing the carryover of certain tax credit; amending 70 O.S. 2001, Section 1210.224, which relates to the Drug Abuse Education Act of 1972; updating agency designation; amending 74 O.S. 2001, Sections 78, as last amended by Section 1, Chapter 169, O.S.L. 2007 and 78a (74 O.S. Supp. 2008, Section 78), which relate to the Fleet Management Division within the Department of Central Services and motor vehicle requisitions; adding agency to list of entities exempt from oversight; exempting agency from motor vehicle requisition requirements; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 20 O.S. 2001, Section 1313.2, as last amended by Section 2, Chapter 437, O.S.L. 2008 (20 O.S. Supp. 2008, Section 1313.2), is amended to read as follows:

Section 1313.2 A. As used in this section:

1. "Convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred or suspended sentence or judgment;

2. "Court" means any state or municipal court having jurisdiction to impose a criminal fine or penalty; and

3. "DNA" means Deoxyribonucleic acid.

B. Any person convicted of an offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration or any person forfeiting bond when charged with such an offense, shall be ordered by the court to pay Nine Dollars (\$9.00) as a separate fee, which fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

C. 1. Any person convicted of any misdemeanor or felony offense shall pay a Laboratory Analysis Fee in the amount of One

Hundred Fifty Dollars (\$150.00) for each offense if forensic science or laboratory services are rendered or administered by the Oklahoma State Bureau of Investigation, by the Toxicology Laboratory of the Office of the Chief Medical Examiner or by any municipality or county in connection with the case. This fee shall be in addition to and not a substitution for any and all fines and penalties otherwise provided for by law for this offense.

2. The court clerk shall cause to be deposited the amount of One Hundred Fifty Dollars (\$150.00) as collected, for every conviction as described in this subsection. The court clerk shall remit the monies in the fund on a monthly basis directly either to:

- a. the Oklahoma State Bureau of Investigation who shall deposit the monies into the OSBI Revolving Fund provided for in Section 150.19a of Title 74 of the Oklahoma Statutes for services rendered or administered by the Oklahoma State Bureau of Investigation,
- b. the Office of the Chief Medical Examiner who shall deposit the monies into the Office of the Chief Medical Examiner Toxicology Laboratory Revolving Fund provided for in Section 954 of Title 63 of the Oklahoma Statutes for services rendered or administered by the Toxicology Laboratory of the Office of the Chief Medical Examiner, or
- c. the appropriate municipality or county for services rendered or administered by a municipality or county.

3. The monies from the Laboratory Analysis Fee Fund deposited into the OSBI Revolving Fund shall be used for the following:

- a. providing criminalistic laboratory services,
- b. the purchase and maintenance of equipment for use by the laboratory in performing analysis,
- c. education, training, and scientific development of Oklahoma State Bureau of Investigation personnel, and
- d. the destruction of seized property and chemicals as prescribed in Sections 2-505 and 2-508 of Title 63 of the Oklahoma Statutes.

~~D. 1. Any person entering a plea of guilty or nolo contendere to the crime of misdemeanor possession of marijuana shall be ordered by the court to pay a five dollar fee, which shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.~~

~~2. The court clerk shall cause to be deposited the amount of Five Dollars (\$5.00) as collected, for every adjudicated or otherwise convicted person as described in this subsection. The court clerk shall remit the monies in the fund on a monthly basis directly to the Bureau of Narcotics Drug Education Revolving Fund.~~

~~E.~~ Upon conviction or bond forfeiture, the court shall collect the fee provided for in subsection B of this section and deposit it in an account created for that purpose. Except as otherwise provided in subsection ~~F~~ E of this section, monies shall be forwarded monthly by the court clerk to the Council on Law Enforcement Education and Training. Beginning July 1, 2003, deposits shall be due on the fifteenth day of each month for the preceding calendar month. There shall be a late fee imposed for failure to make timely deposits; provided, the Council on Law Enforcement Education and Training, in its discretion, may waive all or part of the late fee. Such late fee shall be one percent (1%) of the principal amount due per day beginning from the tenth day after payment is due and accumulating until the late fee reaches one hundred percent (100%) of the principal amount due. Beginning on July 1, 1987, ninety percent (90%) of the monies received by the Council on Law Enforcement Education and Training from the court clerks pursuant to this section shall be deposited in the CLEET Fund, and ten percent (10%) shall be deposited in the General Revenue Fund. Beginning January 1, 2001, sixty and fifty-three one-hundredths percent (60.53%) of the monies received by the Council on Law Enforcement Education and Training from the court clerks pursuant to this section shall be deposited in the CLEET Fund created pursuant to subsection G of this section, five and eighty-three one-hundredths percent (5.83%) shall be deposited in the General Revenue Fund and thirty-three and sixty-four one-hundredths percent (33.64%) shall be deposited in the CLEET Training Center Revolving Fund created pursuant to Section 3311.6 of Title 70 of the Oklahoma Statutes. Along with the deposits required by this subsection, each court shall also submit a report stating the total amount of funds collected and the total number of fees imposed during the preceding quarter. The report may be made on computerized or manual disposition reports.

~~F.~~ E. Any municipality or county having a basic law enforcement academy approved by the Council on Law Enforcement Education and Training pursuant to the criteria developed by the Council for training law enforcement officers shall retain from monies collected pursuant to subsections A through D of this section, Two Dollars (\$2.00) from each fee. These monies shall be deposited into an account for the sole use of the municipality or county in implementing its law enforcement training functions. Not more than seven percent (7%) of the monies shall be used for court and prosecution training. The court clerk of any such municipality or county shall furnish to the Council on Law Enforcement Education and Training the report required by subsection D of this section.

F. 1. Any person entering a plea of guilty or nolo contendere or is found guilty of the crime of misdemeanor possession of marijuana or drug paraphernalia shall be ordered by the court to pay a five-dollar fee, which shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

2. The court clerk shall cause to be deposited the amount of Five Dollars (\$5.00) as collected, for every adjudicated or otherwise convicted person as described in this subsection. The court clerk shall remit the monies in the fund on a monthly basis directly to the Bureau of Narcotics Drug Education Revolving Fund.

G. There is hereby created in the State Treasury a fund for the Council on Law Enforcement Education and Training to be designated the "CLEET Fund". The fund shall be subject to legislative appropriation and shall consist of any monies received from fees and receipts collected pursuant to the Oklahoma Open Records Act, reimbursements for parts used in the repair of weapons of law enforcement officers attending the basic academies, gifts, bequests, contributions, tuition, fees, devises, and the assessments levied pursuant to the fund pursuant to law.

H. 1. Any person convicted of a felony offense shall pay a DNA fee of One Hundred Fifty Dollars (\$150.00). This fee shall not be collected if the person has a valid DNA sample in the OSBI DNA Offender Database at the time of sentencing.

2. The court clerk shall cause to be deposited the amount of One Hundred Fifty Dollars (\$150.00) as collected, for every felony conviction as described in this subsection. The court clerk shall

remit the monies in said fund on a monthly basis directly to the Oklahoma State Bureau of Investigation who shall deposit the monies into the OSBI Revolving Fund provided for in Section 150.19a of Title 74 of the Oklahoma Statutes for services rendered or administered by the Oklahoma State Bureau of Investigation.

3. The monies from the DNA sample fee deposited into the OSBI Revolving Fund shall be used for creating, staffing, and maintaining the OSBI DNA Laboratory and OSBI Combined DNA Index System (CODIS) Database.

I. It shall be the responsibility of the court clerk to account for and ensure the correctness and accuracy of payments made to the state agencies identified in Sections 1313.2 through 1313.4 of this title. Payments made directly to an agency by the court clerk as a result of different types of assessments and fees pursuant to Sections 1313.2 through 1313.4 of this title shall be made monthly to each state agency.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-106, as amended by Section 10, Chapter 170, O.S.L. 2008 (63 O.S. Supp. 2008, Section 2-106), is amended to read as follows:

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

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

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

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

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

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

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

C. The Director is further authorized and directed to:

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

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

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

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

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

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

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

8. Conduct an annual seminar to be attended by selected law enforcement officers in order to teach new techniques and advances



in the investigation of violations of the Uniform Controlled Dangerous Substances Act; and

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

D. The Director is further authorized and directed to:

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

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

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

- a. develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this act,
- b. determine patterns of misuse and abuse of controlled dangerous substances and the social effects thereof, and
- c. improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled dangerous substances.

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

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

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

criminal, administrative, legislative or other proceeding to identify the subjects of research for which such authorization was obtained.

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

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

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

K. The Director is authorized to purchase and maintain motor vehicles and other equipment for use by the employees of the Bureau.

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

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

SECTION 3. AMENDATORY Section 1, Chapter 437, O.S.L. 2008 (63 O.S. Supp. 2008, Section 2-107a), is amended to read as follows:

Section 2-107a. There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to be designated the "Bureau of Narcotics Drug Education Revolving Fund". The fund shall be a continuing

fund, not subject to fiscal year limitations, and shall consist of any monies received pursuant to subsection ~~D~~ F of Section 1313.2 of Title 20 of the Oklahoma Statutes. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for purposes relating to drug education and information in the State of Oklahoma.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-107b of Title 63, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to be designated the "Drug Money Laundering and Wire Transmitter Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control from the fees imposed pursuant to Section 11 of this act. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for the purpose of drug enforcement. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 5. AMENDATORY 63 O.S. 2001, Section 2-310, is amended to read as follows:

Section 2-310. No person shall distribute samples of controlled dangerous substances to a practitioner without simultaneously preparing and leaving with that practitioner a specific, written list of the items so distributed, the form and control of which shall be prescribed by rules promulgated by the ~~Commissioner~~ Director.

SECTION 6. AMENDATORY 63 O.S. 2001, Section 2-410, as amended by Section 1, Chapter 308, O.S.L. 2008 (63 O.S. Supp. 2008, Section 2-410), is amended to read as follows:

Section 2-410. A. Whenever any person who has not previously been convicted of any offense under this act or under any statute of the United States or of any state relating to narcotic drugs, marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads

guilty or nolo contendere to or is found guilty of a violation of the Uniform Controlled Dangerous Substances Act, the court may, unless otherwise prohibited by law, without entering a judgment of guilt and with the consent of such person, defer further proceedings and place the person on probation upon such reasonable terms and conditions as it may require including the requirement that such person cooperate in a treatment and rehabilitation program of a state-supported or state-approved facility, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and dismissal under this section may occur only once with respect to any person.

B. Any expunged arrest or conviction shall not thereafter be regarded as an arrest or conviction for purposes of employment, civil rights, or any statute, regulation, license, questionnaire or any other public or private purpose; provided, that, any plea of guilty or nolo contendere or finding of guilt to a violation of the Uniform Controlled Dangerous Substances Act shall constitute a conviction of the offense for the purpose of the Uniform Controlled Dangerous Substances Act or any other criminal statute under which the existence of a prior conviction is relevant.

C. The provisions of this section shall not apply to any person who pleads guilty or nolo contendere to or is found guilty of a violation of the Trafficking in Illegal Drugs Act or the Drug Money Laundering and Wire Transmitter Act.

SECTION 7. AMENDATORY 63 O.S. 2001, Section 2-411, is amended to read as follows:

Section 2-411. Any person who violates any provision of this act not subject to a specific penalty provision is guilty of a misdemeanor punishable by ~~confinement~~ imprisonment in the county jail for not more than one (1) year, or by a fine of not more than ~~Five Hundred One Thousand Dollars (\$500.00)~~ (\$1,000.00), or by both such fine and imprisonment.

SECTION 8. AMENDATORY 63 O.S. 2001, Section 2-503, as last amended by Section 5, Chapter 223, O.S.L. 2007 (63 O.S. Supp. 2008, Section 2-503), is amended to read as follows:

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

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

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

3. All property which is used, or intended for use, as a container for property described in paragraphs 1 ~~and~~, 2, 5 and 6 of this subsection;

4. All conveyances, including aircraft, vehicles, vessels, or farm implements which are used to transport, conceal, or cultivate for the purpose of distribution as defined in the Uniform Controlled Dangerous Substances Act, or which are used in any manner to facilitate the transportation or cultivation for the purpose of sale or receipt of property described in paragraphs 1 or 2 of this subsection or when the property described in paragraphs 1 or 2 of this subsection is unlawfully possessed by an occupant thereof, except that:

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

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

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

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

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

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

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

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

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

D. All items forfeited in this section shall be forfeited under the procedures established in Section 2-506 of this title. Whenever any item is forfeited pursuant to this section except for items confiscated by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the Attorney General, the district court of the district shall order that such item, money, or monies derived from the sale of such item be deposited by the state, county or city law enforcement agency which seized the item in the revolving fund provided for in Section 2-506 of this title; provided, such item, money or monies derived from the sale of such item forfeited due to nonpayment of a fine imposed pursuant to the provisions of Section 2-415 of this title shall be apportioned as provided in Section 2-416 of this title. Items, money or monies seized pursuant to subsections A and B of this section shall not be applied or considered toward satisfaction of the fine imposed by Section 2-415 of this title. All raw materials used or intended to be used by persons to unlawfully manufacture or attempt to manufacture any controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act shall be summarily forfeited pursuant to the provisions of Section 2-505 of this title.

E. All property taken or detained under this section by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the Attorney General, shall not be repleviable, but shall remain in the custody of the Bureaus, Departments, Commission, or Office, respectively,

subject only to the orders and decrees of a court of competent jurisdiction. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Commissioner of Public Safety, the Director of the Oklahoma State Bureau of Investigation, the Director of the Alcoholic Beverage Laws Enforcement Commission, the Director of the Department of Corrections, and the Attorney General shall follow the procedures outlined in Section 2-506 of this title dealing with notification of seizure, intent of forfeiture, final disposition procedures, and release to innocent claimants with regard to all property included in this section detained by the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the Attorney General. Property taken or detained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the Attorney General shall be disposed of or sold pursuant to the provisions of Section 2-508 of this title. Any money, coins, and currency, taken or detained pursuant to this section may be deposited in an interest bearing account by or at the direction of the State Treasurer if the seizing agency determines the currency is not to be held as evidence. All interest earned on such monies shall be returned to the claimant or forfeited with the money, coins, and currency which was taken or detained as provided by law.

F. The proceeds of any forfeiture of items seized by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be distributed as follows:

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

2. ~~The balance to the Oklahoma State Bureau of Narcotics' revolving fund or the Bureau's agency special account established pursuant to Section 7.2 of Title 62 of the Oklahoma Statutes~~ Narcotics Revolving Fund established pursuant to Section 2-107 of this title, provided the Bureau may enter into agreements with municipal, tribal, county, state or federal law enforcement agencies, or other state agencies with CLEET-certified law enforcement officers, assisting in the forfeiture or underlying



criminal investigation, to return to such an agency a percentage of said proceeds.

~~The Bureau may expend up to Two Million Dollars (\$2,000,000.00) of the forfeited funds within a fiscal year without prior approval of the Legislature. Documentation of such expenditures shall be forwarded to the Governor, Speaker of the House of Representatives and the President Pro Tempore of the Senate on a quarterly basis. Any additional expenditures of forfeited funds shall be pre-approved by the annual appropriations process or the Contingency Review Board.~~

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

SECTION 9. AMENDATORY Section 1, Chapter 170, O.S.L. 2008 (63 O.S. Supp. 2008, Section 2-503.1a), is amended to read as follows:

Section 2-503.1a Sections ~~4~~ 2-503.1a through ~~9~~ 2-503.1i of this title and Sections 11 through 13 of this act shall be known and may be cited as the "Drug Money Laundering and Wire Transmitter Act".

SECTION 10. AMENDATORY Section 9, Chapter 170, O.S.L. 2008 (63 O.S. Supp. 2008, Section 2-503.1i), is amended to read as follows:

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

B. A warrant for the seizure of property pursuant to Section 1222 of Title 22 of the Oklahoma Statutes may be issued by a district judge upon finding of probable cause for funds believed to be used or intended for any violation of the Uniform Controlled Dangerous Substances Act to any licensee under the Oklahoma Financial Transaction Reporting Act.

C. The State Banking Commissioner or designee upon receipt of an affidavit of probable cause from an agent of the Bureau, may issue an emergency notice requiring a temporary freeze on an account to any financial institution or money services business under its

jurisdiction. Such freeze shall halt all transactions in the account. During the fifteen-day freeze, an account holder may file an emergency appeal to the district court. The district court shall schedule a hearing on the emergency appeal within three (3) judicial days of the request. The provisions of Section 2201 et seq. of Title 6 of the Oklahoma Statutes shall not apply to this section. This freeze shall not exceed fifteen (15) days and shall automatically expire unless:

1. A subsequent seizure warrant is issued by a district judge;  
or

2. A notice of forfeiture is filed on the contents of the account pursuant to Section 2-503 of this title.

D. No financial institution shall have liability to an account holder for acting pursuant to this section.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-503.1j of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Any licensee of a money transmission, transmitter or wire transmitter business pursuant to the Oklahoma Financial Transaction Reporting Act and their delegates shall collect a fee of Five Dollars (\$5.00) for each transaction not in excess of Five Hundred Dollars (\$500.00) and in addition to such fee an amount equal to one percent (1%) of the amount in excess of Five Hundred Dollars (\$500.00).

B. The fee prescribed by subsection A of this section shall be remitted quarterly to the Oklahoma Tax Commission on such forms as the Commission, with the assistance of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, may prescribe for such purpose. All required forms and remittances shall be filed with the Tax Commission not later than the fifteenth day of the month following the close of each calendar quarter.

C. The Oklahoma Tax Commission shall apportion all revenues derived from the fee to the Drug Money Laundering and Wire Transmitter Revolving Fund.

D. Every licensee and their delegates shall post a notice on a form prescribed by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control that notifies customers that

upon filing an individual income tax return with either a valid social security number or a valid taxpayer identification number the customer shall be entitled to an income tax credit equal to the amount of the fee paid by the customer for the transaction.

E. The Oklahoma Tax Commission shall be afforded all provisions currently under law to enforce the provisions of subsection B of this section. If a licensee fails to file reports or fails to remit the fee authorized by subsection B of this section, the Oklahoma Tax Commission shall have the authority pursuant to Section 212 of Title 68 of the Oklahoma Statutes to suspend the license of the licensee and its delegates. A notification of the suspension shall also be sent to the State Banking Commissioner and the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The licensee and its delegates may not reapply for a license until all required reports have been filed and all required fee amounts have been remitted.

F. Upon request from the Oklahoma Tax Commission, the State Banking Commissioner may make a claim against the surety bond of the licensee on behalf of the State of Oklahoma.

G. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and its attorneys may assist the Oklahoma Tax Commission in conducting audits and the prosecution and/or seeking of legal remedies to ensure compliance with this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-503.1k of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A prosecution for an offense under the Drug Money Laundering and Wire Transmitter Act may be brought in:

1. Any county in which the financial or monetary transaction is conducted; or

2. Any county where a prosecution for the underlying specified unlawful activity could be brought, if the defendant participated in the transfer of the proceeds of the specified unlawful activity from that county to the county where the financial or monetary transaction is conducted.

B. A prosecution for an attempt or conspiracy offense under the Drug Money Laundering and Wire Transmitter Act may be brought in the

county where venue would lie for the completed offense or in any other county where an act in furtherance of the attempt or conspiracy took place.

C. For purposes of this section, a transfer of funds from one place to another, by wire or any other means, shall constitute a single, continuing transaction. Any person who conducts any portion of the transaction may be charged in any jurisdiction in which the transaction takes place.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-503.11 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Drug Money Laundering and Wire Transmitter Act:

1. "Conducts" includes initiating, concluding, or participating in initiating, or concluding a transaction;

2. "Financial institution" includes:

a. any financial institution, as defined in Section 5312(a)(2) of Title 31 of the United States Code, or the regulations promulgated thereunder, and

b. any foreign bank, as defined in Section 3101 of Title 12 of the United States Code;

3. "Financial transaction" means:

a. a transaction which in any way or degree affects state, interstate or foreign commerce:

(1) involving the movement of funds by wire or other means,

(2) involving one or more monetary instruments, or

(3) involving the transfer of title to any real property, vehicle, vessel, or aircraft; or

b. a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, state, interstate or foreign commerce in any way or degree;

4. "Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity" means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of any violation of the Uniform Controlled Dangerous Substances Act;

5. "Monetary instruments" means:

- a. coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or
- b. investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;

6. "Money transmitting" includes transferring funds by any and all means including, but not limited to, transfers within this state, country or to locations abroad by wire, check, draft, facsimile, or courier;

7. "Proceeds" means all things of value furnished, or intended to be furnished, in exchange for a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act, including all proceeds traceable to such an exchange, and all monies, negotiable instruments, and securities used, or intended to be used to facilitate any violation of the Uniform Controlled Dangerous Substances Act;

8. "Specified unlawful activity" means any violation of the Uniform Controlled Dangerous Substances Act; and

9. "Transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

SECTION 14. AMENDATORY 63 O.S. 2001, Section 2-506, as last amended by Section 4, Chapter 248, O.S.L. 2007 (63 O.S. Supp. 2008, Section 2-506), is amended to read as follows:

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

1. Any property described in subsection A of Section 2-503 of this title. Such property shall be held as evidence until a forfeiture has been declared or release ordered, except for property described in paragraphs 1, 2 and 3 of subsection A of Section 2-503 of this title, or in the case of money, coins, and currency, deposited as provided in subsection E of Section 2-503 of this title; provided, any money, coins and currency taken or detained pursuant to this section may be deposited in an interest-bearing account by or at the direction of the district attorney in the office of the county treasurer if the district attorney determines the currency is not to be held as evidence. All interest earned on such monies shall be returned to the claimant or forfeited with the money, coins and currency which was taken or detained as provided by law;

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

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

B. Notice of seizure and intended forfeiture proceeding shall be filed in the office of the clerk of the district court for the county wherein such property is seized and shall be given all owners and parties in interest. Notwithstanding any other provision of law, no filing fees shall be assessed by the court clerk for the filing of any forfeiture action.

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

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

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

3. Upon all other owners or interested parties, whose addresses are unknown, but who are believed to have an interest in the property, by one publication in a newspaper of general circulation in the county where the seizure was made.

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

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

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

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

H. The claimant of any right, title, or interest in the property may prove a lien, mortgage, or conditional sales contract to be a bona fide or innocent ownership interest and that such right, title, or interest was created without any knowledge or reason to believe that the property was being, or was to be, used for the purpose charged.

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

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

K. Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the office of the district attorney of the county wherein the property was seized, subject only to the orders and decrees of the court or the official having jurisdiction thereof; said official shall maintain a true and accurate inventory and record of all such property seized under the provisions of this section. The provisions of this subsection shall not apply to property taken or detained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections or the Office of the Attorney General. Property taken or detained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections or the Office of the Attorney General shall be subject to the provisions of subsections E and F of Section 2-503 of this title.

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

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

2. To the payment of the actual expenses of preserving the property and legitimate costs related to the civil forfeiture proceedings. For purposes of this paragraph, the term "legitimate costs" shall not include court costs associated with any civil forfeiture proceeding; and



3. The balance to a revolving fund in the office of the county treasurer of the county wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education, and maintained by the district attorney in his or her discretion for those purposes with a yearly accounting to the board of county commissioners in whose county the fund is established and to the District Attorneys Council; provided, one hundred percent (100%) of the balance of the proceeds of such sale of property forfeited due to nonpayment of a fine imposed pursuant to the provisions of Section 2-415 of this title shall be apportioned as provided in Section 2-416 of this title. The revolving fund shall be audited by the State Auditor and Inspector at least every two (2) years in the manner provided in Section 171 of Title 19 of the Oklahoma Statutes. Said audit shall include, but not be limited to, a compliance audit. A district attorney may enter into agreements with municipal, tribal, county or state agencies to return to such an agency a percentage of proceeds of the sale of any property seized by the agency and forfeited under the provisions of this section. The District Attorneys Council shall adopt guidelines which ensure that such agencies receive a reasonable percentage of such proceeds, considering the relative contribution of each agency to the drug enforcement and prosecution operations relating to the seizure. In formulating said guidelines, the District Attorneys Council shall examine federal guidelines on asset distribution and use said guidelines as a basis for establishing guidelines for this state. The Attorney General is hereby authorized to mediate disputes between district attorneys and such agencies concerning the application of said guidelines in particular instances. Any agency that receives proceeds from an asset distribution shall maintain a true and accurate record of all such assets.

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

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

O. Except as provided for in subsection Q of this section, a bona fide or innocent owner, lien holder, mortgagee or vendor that

recovers property pursuant to this section shall not be liable for storage fees.

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

Q. The bona fide or innocent owner, lien holder, mortgagee or vendor shall reclaim subject seized property within thirty (30) days of written notice from the seizing agency. If such person fails to reclaim the property within the thirty-day time period, then storage fees may be assessed against their secured interest.

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

2. When any alleged controlled dangerous substance has been submitted to the laboratory of the OSBI for analysis, and such analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a felony under the laws of this state, no portion of such substance shall be released to any other person or laboratory except to the criminal justice agency originally submitting the substance to the OSBI for analysis, absent an order of a district court. The defendant shall additionally be required to submit to the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner.

3. The court, upon motion of either party, shall order the attendance of any person preparing a report submitted as evidence in

the hearing when it appears there is a substantial likelihood that material evidence not contained in said report may be produced by the testimony of any person having prepared a report. The hearing shall be held and, if sustained, an order issued not less than five (5) days prior to the time when the testimony shall be required.

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

SECTION 15. AMENDATORY 63 O.S. 2001, Section 2-508, as last amended by Section 16, Chapter 168, O.S.L. 2004 (63 O.S. Supp. 2008, Section 2-508), is amended to read as follows:

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

B. 1. With respect to controlled dangerous substances seized or surrendered pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, municipal police departments, sheriffs, the Oklahoma Bureau of Narcotics and Dangerous Drugs Control Commission, the Oklahoma Highway Patrol, and the Oklahoma State Bureau of Investigation shall have the authority to destroy seized controlled dangerous substances when the amount seized in a single incident exceeds ten (10) pounds. The destroying agency shall:

- a. photograph the seized substance with identifying case numbers or other means of identification,

- b. prepare a report describing the seized substance prior to the destruction,
- c. retain at least one (1) pound of the substance randomly selected from the seized substance for the purpose of evidence, and
- d. obtain and retain samples of the substance from enough containers, bales, bricks, or other units of substance seized to establish the presence of a weight of the substance necessary to establish a violation of the Trafficking in Illegal Drugs Act pursuant to subsection C of Section 2-415 of this title, if such a weight is present. If such weight is not present, samples of the substance from each container, bale, brick or other unit of substance seized shall be taken. Each sample taken pursuant to this section shall be large enough for the destroying agency and the defendant or suspect to have an independent test performed on the substance for purposes of identification.

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

- a. the date, the time, and the place where the photographing will take place and notice of the right to attend the photographing, and
- b. the right to obtain samples of the controlled dangerous substance for independent testing and use as evidence.

3. The written notice shall also inform the defendant, suspect or counsel for the defendant or suspect that the destroying agency must be notified in writing within seven (7) days from receipt of the notice of the intent of the suspect or defendant to obtain random samples and make arrangements for the taking of samples. The samples for the defendant or suspect must be taken by a person licensed by the Drug Enforcement Administration. If the defendant or counsel for the defendant fails to notify the destroying agency in writing of an intent to obtain samples and fails to make

arrangements for the taking of samples, a sample taken pursuant to subparagraph d of paragraph 1 of this subsection shall be made available upon request of the defendant or suspect.

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

C. All other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, the Office of the Attorney General, or a district attorney may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the ~~Bureau~~ agency or district attorney, the Bureau agency or district attorney shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court except for laboratory equipment which may be forfeited when no longer needed in connection with litigation, unless the property is perishable. The Director or Commissioner of the agency, the Attorney General, or district attorney shall file a petition in the district court of Oklahoma County or in the case of a district attorney, the petition shall be filed in a county within the ~~district attorney's~~ jurisdiction of the district attorney requesting the authority to:

1. Conduct a sale of the property; or

2. Convert title of the property to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, the Office of the Attorney General, or to the district attorney's office for ~~donation or transfer~~ the purposes provided for in accordance with subsection I or K J, K or L of this section, ~~or~~

~~3. Convert title of the property to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for the purpose of leasing the property in accordance with subsection J of this section.~~

The Director, Commissioner, Attorney General or district attorney shall attach to the petition:

- a. a list describing the property, including all identifying numbers and marks, if any,
- b. the date the property came into the possession of the ~~Bureau~~ agency or district attorney, and
- c. the name and address of the owner, if known. ~~The~~

For any item having an apparent value in excess of One Hundred Dollars (\$100.00), but less than Five Hundred Dollars (\$500.00), the notice of the hearing of the petition for the sale of the property, except laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the provisions of the Uniform Controlled Dangerous Substances Act, shall be given to every known owner, as set forth in the petition, by ~~certified~~ first-class mail to the last-known address of the owner at least ten (10) days prior to the date of the hearing. An affidavit of notice being sent shall be filed with the court by a representative of the agency, the Director or Commissioner of the agency, the Attorney General or district attorney. For items in excess of Five Hundred Dollars (\$500.00), a notice of the hearing of the petition for the sale of said property shall be delivered to every known owner as set forth in the petition by certified mail. Notice of a hearing on a petition for forfeiture or sale of laboratory equipment used in the processing, manufacturing or compounding of controlled dangerous substances in violation of the Uniform Controlled Dangerous Substances Act shall not be required.

The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director, Commissioner, Attorney General, or district attorney to donate the property pursuant to subsection ~~F~~ J, K or L of this section, to sell the property at a public auction to the highest bidder, or to convert title of the property to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections, or the Office of the

Attorney General for the ~~purpose of leasing or transferring the property pursuant to purposes provided for in subsection J or, K or L~~ of this section after at least ten (10) ~~days~~ days of notice has been given by publication in one issue of a legal newspaper of the county. If the property is offered for sale at public auction and no bid is received that exceeds fifty percent (50%) of the value of the property, such value to be announced prior to the sale, the Director, Commissioner, Attorney General, or district attorney may refuse to sell the item pursuant to any bid received. The Director, Commissioner, Attorney General, or district attorney shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased.

D. The money received from the sale of property by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall be used ~~for the purpose of purchasing controlled dangerous substances to be used as evidence in narcotic cases and fees for informers, or employees and other associated expenses necessary to apprehend and convict violators of the laws of the State of Oklahoma regulating controlled dangerous substances~~ general drug enforcement purposes. These funds shall be transferred to the ~~agency special account Bureau of Narcotics Revolving Fund~~ Bureau of Narcotics Revolving Fund established pursuant to Section 7.2 2-107 of Title 62 of the Oklahoma Statutes ~~or the Bureau of Narcotics Revolving Fund~~ this title or in the case of a district attorney, the revolving fund provided for in that district for drug education and enforcement paragraph 3 of subsection L of Section 2-506 of this title. ~~The Director of the Bureau of Narcotics and Dangerous Drugs Control and the Director of State Finance are hereby authorized and directed to promulgate in writing the necessary rules and regulations requiring strict accountability relative to the expenditure of the above funds. In the case of a district attorney, the accountability relative to the expenditure of the fund shall be according to rules already existing for county revolving funds.~~

~~D.~~ E. At the request of the Department of Public Safety, the district attorney or a designee of the district attorney may conduct any forfeiture proceedings as described in Section 2-503 of this title on any property subject to forfeiture as described in subsection A, B, or C of Section 2-503 of this title. ~~Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Oklahoma Department of Public Safety may be disposed of by order of the district court when no longer needed in connection with any~~

~~litigation. If the owner of the property is unknown to the Department, the Department shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Commissioner of Public Safety shall file a petition in the district court of Oklahoma County requesting the authority to conduct a sale of the property or to convert title of the property to the Oklahoma Department of Public Safety. The Commissioner of Public Safety shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Department, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last known address of the owner and party in last possession if applicable, at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Commissioner of Public Safety to donate the property pursuant to subsection I of this section, to sell the property to the highest bidder, or convert title of the property to the Oklahoma Department of Public Safety for the purpose of leasing or transferring the property pursuant to subsection J or K of this section after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Commissioner of Public Safety shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. The money received from the sale of property by the Department of Public Safety shall be deposited in the Department of Public Safety Revolving Fund and shall be expended for law enforcement purposes.~~

~~E. Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Alcoholic Beverage Laws Enforcement Commission may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Alcoholic Beverage Laws Enforcement Commission, the Commission shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property~~



~~is perishable. The Director of the Alcoholic Beverage Laws Enforcement Commission shall file a petition in the district court of Oklahoma County requesting the authority to conduct a sale of the property or to convert title of the property to the Alcoholic Beverage Laws Enforcement Commission. The Director of the Alcoholic Beverage Laws Enforcement Commission shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Alcoholic Beverage Laws Enforcement Commission, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last known address of the owner at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director of the Alcoholic Beverage Laws Enforcement Commission to donate the property pursuant to subsection I of this section or to sell the property to the highest bidder after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Director of the Alcoholic Beverage Laws Enforcement Commission shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. F. The money received from the sale of property by the Alcoholic Beverage Laws Enforcement Commission shall be deposited in the General Revenue Fund of the state.~~

~~F. Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Oklahoma State Bureau of Investigation may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Bureau, the Bureau shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Director of the Oklahoma State Bureau of Investigation shall file a petition in the district court of Oklahoma County requesting the authority to conduct a sale of the property or to convert title of the property to the Oklahoma State Bureau of Investigation. The Director of the Oklahoma State Bureau~~

~~of Investigation shall attach to the petition a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Bureau, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last known address of the owner and party in last possession if applicable, at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property, and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director of the Oklahoma State Bureau of Investigation to donate the property pursuant to subsection I of this section, to sell the property to the highest bidder, or convert title of the property to the Oklahoma State Bureau of Investigation for the purpose of leasing or transferring the property pursuant to subsection J or K of this section after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Director of the Oklahoma State Bureau of Investigation shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. G. The money received from the sale of property from the Oklahoma State Bureau of Investigation shall be deposited in the OSBI Revolving Fund and shall be expended for law enforcement purposes.~~

~~G. Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Oklahoma Department of Corrections after being seized from persons not in the custody or supervision of the Department of Corrections may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Department, the Department shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Director of the Oklahoma Department of Corrections shall file a petition in the district court of the county of seizure requesting the authority to conduct a sale of the property or to convert title to the property to the Oklahoma Department of Corrections. The Director of the Oklahoma Department of Corrections shall attach to the petition a list describing the property, including all~~

~~identifying numbers and marks, if any, the date the property came into possession of the Department and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last known address of the owner and party in last possession if applicable, at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Director of the Oklahoma Department of Corrections to donate the property pursuant to subsection I of this section, to sell the property to the highest bidder or convert title of the property to the Oklahoma Department of Corrections after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. H. The Director of the Oklahoma Department of Corrections shall make a return of the sale and when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased. Twenty-five percent (25%) of the money received from the sale shall be disbursed to a revolving fund in the office of the county treasurer of the county wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education. The remaining seventy-five percent (75%) shall be deposited in the Department of Corrections Revolving Fund to be expended for equipment for probation and parole officers and correctional officers.~~

~~H. Except as provided in subsection A of this section, all other property not otherwise provided for in the Uniform Controlled Dangerous Substances Act which has come into the possession of the Office of the Attorney General may be disposed of by order of the district court when no longer needed in connection with any litigation. If the owner of the property is unknown to the Office, the Office shall hold the property for at least six (6) months prior to filing a petition for disposal with the district court, unless the property is perishable. The Office of the Attorney General shall file a petition in the district court of Oklahoma County requesting the authority to conduct a sale of the property or to convert title of the property to the Office of the Attorney General. The Office of the Attorney General shall attach to the petition a~~

~~list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the Office, and the name and address of the owner, if known. The notice of the hearing of the petition for the sale of the property shall be given to every known owner, as set forth in the petition, by certified mail to the last known address of the owner and party in last possession, if applicable, at least ten (10) days prior to the date of the hearing. The notice shall contain a brief description of the property and the location and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one such place being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership of the property, the court may enter an order authorizing the Attorney General to donate the property pursuant to subsection I of this section, to sell the property to the highest bidder, or convert title of the property to the Office of the Attorney General for the purpose of leasing or transferring the property pursuant to subsection J or K of this section after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Attorney General shall make a return of the sale and, when confirmed by the court, the order confirming the sale shall vest in the purchaser title to the property so purchased.~~ I. The money received from the sale of property from the Office of the Attorney General shall be deposited in the Attorney General Law Enforcement Revolving Fund and shall be expended for law enforcement purposes. The Office of the Attorney General may enter into agreements with municipal, county or state agencies to return to such an agency a percentage of proceeds of the sale of any property seized by the agency and forfeited under the provisions of this section.

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

~~J.~~ K. Any vehicle or firearm which has come into the possession and title vested in the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma Department of Public Safety, the Oklahoma State Bureau of Investigation, or the Office of the Attorney General, may be transferred, donated or offered for lease to any sheriff's office, tribal law enforcement agency, campus police department pursuant to the provisions of the Oklahoma Campus Security Act, or police department in this state on an annual basis to assist with the enforcement of the provisions of the Uniform Controlled Dangerous Substances Act. Each agency shall promulgate rules, regulations and procedures for leasing vehicles and firearms. No fully automatic weapons will be subject to the leasing agreement. All firearms leased may be utilized only by C.L.E.E.T. certified officers who have received training in the type and class of weapon leased. Every lessee shall be required to submit an annual report to the leasing agency stating the condition of all leased property. A lease agreement may be renewed annually at the option of the leasing agency. Upon termination of a lease agreement, the property shall be returned to the leasing agency for sale or other disposition. All funds derived from lease agreements or other disposition of property no longer useful to law enforcement shall be deposited in the agency's revolving fund and shall be expended for law enforcement purposes.

~~K.~~ L. Before disposing of any property pursuant to subsections C through ~~F~~ I of this section, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma State Bureau of Investigation, the Department of Corrections, the Office of the Attorney General, or a district attorney ~~shall notify the Department of Corrections and the Oklahoma Department of Career and Technology Education of the identity of any such property in their possession. The Department of Corrections and the Oklahoma Department of Career and Technology Education must respond within ten (10) days of such notification, as to whether or not such property could be used in the operations or training programs of either agency. Upon receipt of the response, the agency or district attorney that issued the notification shall negotiate as to which agency will be entitled to the use of the property, the purpose of the use and the duration of such use. Upon return of the property, the property may be disposed of as otherwise provided in this section may transfer or donate the property to another state agency, tribal law enforcement agency, or school district for use upon request. In addition to the provisions of this section, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control may~~

transfer or donate property for any purpose pursuant to Section 2-106.2 of this title. The agencies and any district attorney that are parties to any transfer of property pursuant to this subsection shall enter into written agreements to carry out any such transfer of property. Any such agreement may also provide for the granting of title to any property being transferred as the parties deem appropriate. If the transfer of property is to a school district, a written agreement shall be entered into with the superintendent of the school district. No weapons may be transferred to a school district except as provided for in subsection K of this section.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.401 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by subsections B and C of this section, for taxable years beginning January 1, 2009, there shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes in the amount of all electronic funds transfers fees paid by an individual or entity pursuant to Section 11 of this act.

B. For any fees paid by a person or entity for the taxable year beginning January 1, 2009, the credit otherwise authorized by this section shall not be claimed for an individual prior to January 1, 2011. Subject to the requirements of this subsection, an individual taxpayer shall be able to claim the credit authorized by this section for all fees paid during the tax year ending December 31, 2009, and the tax year ending December 31, 2010, on the income tax return filed for the tax year ending December 31, 2010.

C. For any fees paid by an entity other than a natural person for the taxable year beginning January 1, 2009, the credit otherwise authorized by this section shall not be claimed on an income tax return prior to January 1, 2011. Subject to the requirements of this subsection, an entity other than a natural person shall be able to claim the credit authorized by this section for all fees paid during a tax year ending at any time during calendar year 2009 and for all fees paid during calendar year 2010 on the income tax return filed for the tax year ending not later than December 31, 2010.

D. The credit authorized by this section shall not be used to reduce the income tax liability of the taxpayer to less than zero (0).

E. To the extent not used in any taxable year, the credit authorized by this section may be carried over, in order, to each of the five (5) succeeding taxable years.

SECTION 17. AMENDATORY 70 O.S. 2001, Section 1210.224, is amended to read as follows:

Section 1210.224 The Department of Education may administer the comprehensive Drug Abuse Education Act of 1972, pursuant to regulations which the State Board of Education is hereby empowered to promulgate. In administering this section, the Department shall take into consideration the advice of the ~~Commissioner~~ Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the ~~Advisory Board to the Commissioner of~~ Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission.

SECTION 18. AMENDATORY 74 O.S. 2001, Section 78, as last amended by Section 1, Chapter 169, O.S.L. 2007 (74 O.S. Supp. 2008, Section 78), is amended to read as follows:

Section 78. A. There is hereby created and established within the Department of Central Services, the Fleet Management Division. The Division shall provide oversight of and advice to state agencies that own, operate and utilize motor vehicles, except for the Department of Public Safety, the Department of Transportation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and The Oklahoma State System of Higher Education.

B. The Director of Central Services shall:

1. Appoint and fix duties and compensation for a Fleet Manager who shall serve as the administrative head of the division;
2. Hire personnel as necessary to provide fleet management services to state agencies;
3. Acquire facilities to maintain vehicles;
4. Promulgate rules for efficient and economical operations to provide fleet management services to state agencies; and
5. Report to the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate those agencies that fail to comply with the provisions of law and the

rules of the Fleet Management Division regarding submission of reports, vehicle use, and vehicle maintenance.

C. The rules shall include provisions to:

1. Establish uniform written vehicle acquisition, leasing, maintenance, repairs, and disposal standards for use by all state agencies to justify actual need for vehicles;

2. Establish standards for routine vehicle inspection and maintenance;

3. Provide standards and forms for recordkeeping of fleet operation, maintenance, and repair costs for mandatory use by all state agencies to report the data to the Fleet Management Division on a monthly basis;

4. Provide standards and utilize methods for disposal of vehicles pursuant to the Oklahoma Surplus Property Act and any other applicable state laws;

5. Establish mandatory maintenance contracts throughout the state for all agencies to access for vehicle repairs and service at discounted rates and parts;

6. Require all agencies with in-house repair and service facilities to assign a value to the preventive maintenance services, track those services with a dollar value, and report costs to the Fleet Manager for the prior month no later than the twentieth day following the close of each month;

7. Promulgate rules requiring all state-owned motor vehicles to be marked in a uniform, highly visible manner, except for certain vehicles driven by law enforcement agencies or other agencies requiring confidentiality;

8. Require agencies to produce and maintain written justification for any vehicle that travels fewer than twelve thousand (12,000) miles annually and report to the Fleet Manager such information by October 1 of each year; and

9. Address any other matter or practice which relates to the responsibilities of the Director of Central Services.

D. The Fleet Manager shall:



1. Develop specifications for contracts for vehicle maintenance for state vehicles not serviced or maintained by state agencies;

2. Conduct on-site inspections to verify state agency or supplier compliance with Division standards for inspections, maintenance and recordkeeping;

3. Assess state agency needs for vehicles and types of vehicles;

4. Assign, transfer or lease vehicles to a state agency to meet the needs of the state agency;

5. Unless otherwise provided by law, determine whether a state agency may use or operate a vehicle without state identifying markings, bearing a license plate used by a privately owned vehicle to perform the duties of the state agency without hindrance;

6. Report to the Director of Central Services occurrences of agencies failing to comply with the provisions of law and the rules of the Fleet Management Division regarding submission of reports, vehicle use, and vehicle maintenance;

7. Offer guidelines to agencies to assist in determining the most cost-effective and reasonable modes of travel for single trips from the following options: state vehicle, private rental, or mileage reimbursement; and

8. Provide, upon the request of the Governor, the President Pro Tempore of the Senate or the Speaker of the House of Representatives, reports from data the Fleet Manager collects.

SECTION 19. AMENDATORY 74 O.S. 2001, Section 78a, is amended to read as follows:

Section 78a. A. State agencies with authority to own motor vehicles shall submit a requisition to the Director of Central Services prior to acquisition of a motor vehicle. The requisition shall state the type of vehicle, the intended purpose of the vehicle, a statement that the agency has actual need for the vehicle, the supplier of the vehicle, that the state agency has sufficient funds to acquire and maintain the vehicle and cite the statutory authority of the state agency to acquire a vehicle.

B. The Director of Central Services shall review the requisition and approve or deny the request of the state agency within fifteen (15) days of receipt by the Director of Central Services. The Director of State Finance shall not approve a purchase order or claim for a motor vehicle unless the acquisition of the motor vehicle was approved by the Director of Central Services.

C. The provisions of subsections A and B of this section shall not apply to the Department of Public Safety or the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

SECTION 20. This act shall become effective July 1, 2009.

SECTION 21. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 22nd day of May, 2009.

---

Presiding Officer of the House of  
Representatives

Passed the Senate the 26th day of May, 2009.

---

Presiding Officer of the Senate