

ENROLLED HOUSE
BILL NO. 3251

By: Tibbs, Roan and Shelton of
the House

and

Crain of the Senate

An Act relating to public health and safety; defining terms; making certain acts unlawful; providing penalties; amending 63 O.S. 2001, Section 2-302, as last amended by Section 2, Chapter 40, O.S.L. 2005 (63 O.S. Supp. 2009, Section 2-302), which relates to the Uniform Controlled Dangerous Substances Act; requiring certain registrants to check patient profiles on central repository; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-101.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Glass tube" means an object which meets all of the following requirements:

- a. a hollow glass cylinder, either open or closed at either end,
- b. not less than two (2) nor more than seven (7) inches in length,
- c. not less than one-eighth (1/8) inch nor more than three-fourths (3/4) inch in diameter,

- d. may be used to facilitate, or intended or designed to facilitate, violations of the Uniform Controlled Dangerous Substances Act including, but not limited to, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, and concealing controlled substances and injecting, ingesting, inhaling, or otherwise introducing controlled substances into the human body, and
- e. sold individually, or in connection with another object such as a novelty holder, flower vase, or pen. The foregoing descriptions are intended to be illustrative and not exclusive;

2. "Patron" means a person who enters a business for the purpose of purchasing or viewing as a shopper, merchandise offered for sale at the business; and

3. "Retailer" means a person, corporation, or partnership primarily engaged in the sale of consumable goods and services including, but not limited to, food and gasoline, at retail to the general public. A retailer shall not include any person, corporation, or partnership that sells specialized laboratory equipment for research or educational purposes.

B. It shall be unlawful for a retailer within the State of Oklahoma to offer for retail sale to any patron a glass tube, as defined in subsection A of this section.

C. A retailer, or an employee of the retailer, who willfully and knowingly violates the provisions of subsection B of this section shall, upon conviction, be guilty of a misdemeanor punishable by incarceration in the county jail for not more than one (1) year, or by a fine of not less than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-302, as last amended by Section 2, Chapter 40, O.S.L. 2005 (63 O.S. Supp. 2009, Section 2-302), is amended to read as follows:

Section 2-302. A. Every person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes any controlled dangerous substance within this state, or who proposes to engage in the manufacture, distribution, dispensing,

prescribing, administering or use for scientific purposes of any controlled dangerous substance within this state shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, in accordance with rules promulgated by the Director. Persons registered by the Director under Section 2-101 et seq. of this title to manufacture, distribute, dispense, or conduct research with controlled dangerous substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article. Every wholesaler, manufacturer or distributor of any drug product containing pseudoephedrine or phenylpropanolamine, or their salts, isomers, or salts of isomers shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in accordance with rules promulgated by the Director and as provided for in Section 2-332 of this title.

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

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

D. Every trainer or handler of a canine controlled dangerous substances detector who, in the ordinary course of such trainer's or handler's profession, desires to possess any controlled dangerous substance, annually, shall obtain a registration issued by the Director for a fee of Seventy Dollars (\$70.00). Such persons shall be subject to all applicable provisions of Section 2-101 et seq. of this title and such applicable rules promulgated by the Director for those individuals identified in subparagraph a of paragraph 32 of Section 2-101 of this title. Persons registered by the Director pursuant to this subsection may possess controlled dangerous

substances to the extent authorized by their registration and in conformity with the other provisions of this article.

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

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

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

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

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

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

6. A nursing home licensed by this state;

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

8. Registered nurses and licensed practical nurses.

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

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

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

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

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

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

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

M. Beginning November 1, 2010, each registrant that prescribes, administers or dispenses methadone shall be required to check the prescription profile of the patient on the central repository of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

SECTION 3. This act shall become effective November 1, 2010.

Passed the House of Representatives the 13th day of May, 2010.

Presiding Officer of the House of
Representatives

Passed the Senate the 21st day of May, 2010.

Presiding Officer of the Senate