

THE HOUSE OF REPRESENTATIVES  
Tuesday, April 14, 2009

Committee Substitute for  
ENGROSSED  
Senate Bill No. 1119

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1119 - By: SYKES  
of the Senate and TERRILL AND COX of the House.

( Uniform Controlled Dangerous Substances Act - registration - definitions -  
effective date –  
emergency )

1 SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-103, as last amended by  
2 Section 1, Chapter 359, O.S.L. 2008 (63 O.S. Supp. 2008, Section 2-103), is amended to  
3 read as follows:  
4 Section 2-103. A. The Director shall be appointed by the Oklahoma State Bureau  
5 of Narcotics and Dangerous Drugs Control Commission. The Director of Narcotics and  
6 Dangerous Drugs Control on January 1, 1984, shall be initially appointed as Director.  
7 The succeeding Director shall, at the time of the appointment, have a Bachelor's Degree  
8 from an accredited college or university and at least five (5) ~~years~~ years of experience in  
9 drug law enforcement. The Director may appoint necessary assistants, agents, and other  
10 personnel to perform the work of the office and may prescribe their titles and duties and  
11 fix their compensation, other than the salaries established in subsection A of Section 2-  
12 103a of this title, pursuant to Merit System rules. The Director may appoint employees

1 to the positions of Chief of Law Enforcement Information and Technology, Public  
2 Information/Education Officer, Training Officer, Program ~~Administrator~~ Administrators,  
3 Grants Administrator, Criminal Analysts, Legal Secretary, and Typist Clerk/Spanish  
4 Transcriptionists. ~~Said~~ The positions shall be unclassified and exempt from the rules  
5 and procedures of the Office of Personnel Management, except leave regulations. The  
6 office of the Director shall be located at a suitable place in Oklahoma City, Oklahoma.

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

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

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

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

21 D. A commissioned employee of the Oklahoma State Bureau of Narcotics and  
22 Dangerous Drugs Control shall be entitled to receive upon retirement by reason of length

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

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

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

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

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

18 SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-303, as last amended by  
19 Section 1, Chapter 273, O.S.L. 2008 (63 O.S. Supp. 2008, Section 2-303), is amended to  
20 read as follows:

21 Section 2-303. A. The Director of the Oklahoma State Bureau of Narcotics and  
22 Dangerous Drugs Control shall register an applicant to manufacture, distribute,

1 dispense, prescribe, administer or use for scientific purposes controlled dangerous  
2 substances included in Schedules I through V of Section 2-101 et seq. of this title unless  
3 the Director determines that the issuance of such registration is inconsistent with the  
4 public interest. In determining the public interest, the following factors shall be  
5 considered:

6 1. Maintenance of effective controls against diversion of particular controlled  
7 dangerous substances and any Schedule I or II substance compounded therefrom into  
8 other than legitimate medical, scientific or industrial channels, including examination of  
9 the fitness of his or her employees or agents to handle dangerous substances;

10 2. Compliance with applicable state and local law;

11 3. Has been found guilty of, entered a plea of guilty or nolo contendere to a charge  
12 under the Uniform Controlled Dangerous Substances Act or any other state or federal  
13 law relating to any substance defined herein as a controlled dangerous substance or any  
14 felony under the laws of any state or the United States;

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

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

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

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

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

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

9           C. Practitioners shall be registered to dispense, prescribe, administer or use for  
10 scientific purposes substances in Schedules II through V if they are authorized to carry  
11 on their respective activities under the laws of this state. A registration application by a  
12 practitioner who wishes to conduct research with Schedule I substances shall be  
13 accompanied by evidence of the applicant's federal registration to conduct such activity  
14 and shall be referred to the Medical Research Commission for advice. The Medical  
15 Research Commission shall promptly advise the Director concerning the qualifications of  
16 each practitioner requesting such registration. Registration for the purpose of bona fide  
17 research or of use for scientific purposes with Schedule I substances by a practitioner  
18 deemed qualified by the Medical Research Commission may be denied only on a ground  
19 specified in subsection A of Section 2-304 of this title or if there are reasonable grounds  
20 to believe that the applicant will abuse or unlawfully transfer such substances or fail to  
21 safeguard adequately such applicant's supply of such substances against diversion from  
22 legitimate medical or scientific use.

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

Practitioners and mid-

level practitioners

\$70.00

\$140.00

per year

of

registration

Home Care Agencies,

Hospices & Home Care

Services

\$70.00

\$140.00

annually

Distributors

\$100.00

\$300.00

annually

Manufacturers

\$200.00

\$500.00

annually

Manufacturer, Wholesaler, or Distributor of drug

products containing pseudoephedrine or

phenylpropanolamine

\$100.00

\$300.00

annually

1           2. A registrant shall be required to pay double the amount of the above-listed fee  
2 for any renewal of registration received more than ~~sixty (60)~~ thirty (30) days late.

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

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

8           SECTION 3.    AMENDATORY    63 O.S. 2001, Section 2-308, is amended to read  
9 as follows:

10          Section 2-308. Controlled dangerous substances in Schedules I and II shall be  
11 distributed only by a registrant to another registrant pursuant to an order form obtained  
12 from the United States ~~Attorney General~~ Drug Enforcement Administration.

13 Compliance with the provisions of the Federal Controlled Substances Act respecting  
14 order forms shall be deemed compliance with this section. This section shall not apply to  
15 dispensing as defined by this act, nor to distribution otherwise authorized by this act.

16          SECTION 4.    AMENDATORY    63 O.S. 2001, Section 2-309B, as last amended by  
17 Section 3, Chapter 273, O.S.L. 2008 (63 O.S. Supp. 2008, Section 2-309B), is amended to  
18 read as follows:

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

20          1. "Bureau" means the Oklahoma State Bureau of Narcotics and Dangerous Drugs  
21 Control;

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

5           3. "Dispenser's registration number" means the dispenser's Oklahoma State  
6 Bureau of Narcotics and Dangerous Drugs Control registration number or, in the case of  
7 a pharmacist, the National Association of Boards of Pharmacy number for the pharmacy  
8 where the dispensation is made;

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

13           5. "Recipient" means the person for whom a prescription is prescribed and who is  
14 the lawful intended ultimate user;

15           6. "Recipient's agent" means a person who is authorized by the ultimate user to  
16 pick up the recipient's medication and deliver it to the recipient or a person who claims a  
17 prescription other than the person to whom the medication is prescribed;

18           7. "Recipient's identification number" and "recipient's agent's identification  
19 number" means the unique number contained on a ~~recipient's~~ valid passport, military  
20 identification card, driver license, or ~~valid~~ identification card issued to a recipient  
21 pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or similar statute of  
22 another state if the recipient is not a resident of the State of Oklahoma, or, if the

1 recipient is less than eighteen (18) years old and has no such identification, the unique  
2 number contained on ~~the recipient's parent's or guardian's~~ a valid passport, military  
3 identification card, driver license, or ~~valid~~ identification card issued to the recipient's  
4 parent or guardian pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or  
5 similar statute of another state if the parent or guardian is not a resident of the State of  
6 Oklahoma, or, if the controlled dangerous substance is obtained for an animal, the  
7 unique number contained on the animal owner's valid driver license, or ~~valid~~  
8 identification card issued pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes  
9 or similar statute of another state if the owner is not a resident of the State of Oklahoma.  
10 Nonresident drug outlets registered pursuant to the Oklahoma Pharmacy Act and  
11 resident drug outlets defined in Section 353.1 of Title 59 of the Oklahoma Statutes are  
12 exempt from the picture identification requirement if the nonresident and resident drug  
13 outlets have obtained the identification of the patient through the prescription benefit  
14 plan of the patient;

15 ~~6. 8.~~ "Registrant" means a person, persons, corporation or other entity who has  
16 been issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous  
17 Drugs Control a registration pursuant to Section 2-302 of this title; and

18 ~~7. 9.~~ "State" means any state, territory, or possession of the United States, the  
19 District of Columbia, or foreign nation.

20 SECTION 5. AMENDATORY 63 O.S. 2001, Section 2-309C, as last amended by  
21 Section 3, Chapter 128, O.S.L. 2005 (63 O.S. Supp. 2008, Section 2-309C), is amended to  
22 read as follows:

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

- 9 1. Recipient's name, ~~when feasible to submit~~;
- 10 2. Recipient's address;
- 11 3. Recipient's date of birth;
- 12 4. Recipient's identification number;
- 13 ~~5.~~ 5. National Drug Code number of the substance dispensed;
- 14 ~~6.~~ 6. Date of the dispensation;
- 15 ~~7.~~ 7. Quantity of the substance dispensed;
- 16 ~~8.~~ 8. Prescriber's United States Drug Enforcement Agency registration number;
- 17 ~~and~~
- 18 ~~9.~~ 9. Dispenser's registration number; and
- 19 10. Other information as required by administrative rule.

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

- 21 1. ~~On an electronic device which is compatible with the receiving device of the~~  
22 ~~central repository or by computer diskette, magnetic tape, CD-ROM or in~~ In a format or

1 other media designated acceptable by the Oklahoma State Bureau of Narcotics and  
2 Dangerous Drugs Control; and

3 2. Within ~~thirty (30) days~~ twenty-four (24) hours of the time that the substance is  
4 dispensed. Beginning January 1, 2012, all information shall be submitted on a real-time  
5 log.

6 C. The provisions of subsection B of this section shall not apply to a nonresident  
7 drug outlet registered pursuant to the Oklahoma Pharmacy Act or to a resident drug  
8 outlet as defined in Section 353.1 of Title 59 of the Oklahoma Statutes if the nonresident  
9 or resident drug outlet mails or delivers a controlled substance to a patient or client.  
10 Nonresident and resident drug outlets shall transmit the information required in this  
11 section within seven (7) days of the date that the controlled substance is dispensed.

12 D. Willful failure to transmit accurate information as required by this section shall  
13 be a misdemeanor punishable, upon conviction, by not more than one (1) year in the  
14 county jail, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both  
15 such imprisonment and fine, or administrative action may be taken pursuant to Section  
16 2-304 of this title.

17 ~~D.~~ E. The Director of the Bureau shall have the authority to allow paper  
18 submissions on ~~the universal claim~~ a form designated by the Oklahoma State Bureau of  
19 Narcotics and Dangerous Drugs Control, if the dispenser has an appropriate hardship.

20 ~~E.~~ F. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control is  
21 authorized, by any funds available to it, to implement a real-time electronic logbook to  
22 monitor the sale of Schedule V products containing any detectable quantity of

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

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

10 2. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control adopts  
11 rules for the reporting of sales of Schedule V product containing any detectable quantity  
12 of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.

13 SECTION 6. This act shall become effective July 1, 2009.

14 SECTION 7. It being immediately necessary for the preservation of the public  
15 peace, health and safety, an emergency is hereby declared to exist, by reason whereof  
16 this act shall take effect and be in full force from and after its passage and approval.

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,  
18 dated 04-13-09 - DO PASS, As Amended.