

EHB 2529

1 THE STATE SENATE
2 Tuesday, March 30, 2010

3 ENGROSSED

4 House Bill No. 2529

5 ENGROSSED HOUSE BILL NO. 2529 - By: Schwartz and Pittman of the
6 House and Schulz of the Senate.

7 An Act relating to public health and safety; amending 63
8 O.S. 2001, Sections 2-105 and 2-106, as last amended by
9 Section 2, Chapter 442, O.S.L. 2009 (63 O.S. Supp. 2009,
10 Section 2-106), which relate to the Uniform Controlled
11 Dangerous Substances Act; directing Oklahoma State Bureau of
12 Narcotics and Dangerous Drugs Control to compile certain
13 report on a yearly basis; requiring registrants to report
14 certain information; making information of the central
15 repository confidential; requiring report be prepared by the
16 Director of the Oklahoma State Bureau of Narcotics and
17 Dangerous Drugs Control; providing list of information to be
18 included in the report; amending 63 O.S. 2001, Section 2-
19 309D, as last amended by Section 4, Chapter 128, O.S.L. 2005
20 (63 O.S. Supp. 2009, Section 2-309D), which relates to the
21 Anti-Drug Diversion Act; allowing certain entity access to
22 the central repository; making information submitted to the
23 central repository confidential; designating persons who may
24 have access to certain information of the central
25 repository; providing exemption from liability; and
26 providing an effective date.

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

28 SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-105, is
29 amended to read as follows:

30 Section 2-105. A. It shall be the duty of all departments,
31 officers, agencies, and employees of the state to cooperate with the
32 Director of the Oklahoma State Bureau of Narcotics and Dangerous
33 Drugs Control in carrying out the functions of ~~his~~ the office. The

1 State Medical Examiner shall promptly report to the office of the
2 Director all deaths occurring within the state which were the result
3 or probable result of abuse of a controlled dangerous substance.

4 B. The Bureau shall be required to compile a yearly report of
5 all fatal and nonfatal drug overdoses for the State of Oklahoma.
6 All registrants, as defined in the Anti-Drug Diversion Act, shall
7 report any person appearing at a medical facility with a drug
8 overdose to the central repository as provided in the Anti-Drug
9 Diversion Act. The determination of a drug overdose shall be made
10 solely at the discretion of the treating medical professional based
11 on the education, experience and professional opinion of the medical
12 professional. This information shall be considered part of the
13 central repository pursuant to the Anti-Drug Diversion Act and shall
14 be confidential and not open to the public pursuant to the
15 provisions of Section 2-309D of this title.

16 SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-106, as
17 last amended by Section 2, Chapter 442, O.S.L. 2009 (63 O.S. Supp.
18 2009, Section 2-106), is amended to read as follows:

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

22 1. Cooperate with federal and other state agencies in
23 discharging ~~his~~ the responsibilities concerning traffic in narcotics

1 and dangerous substances and in suppressing the abuse of dangerous
2 substances;

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

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

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

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

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

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

- 1 1. Coordinate and cooperate in educational programs designed to
2 prevent and deter misuse and abuse of controlled dangerous
3 substances;
- 4 2. Promote better recognition of the problems of misuse and
5 abuse of controlled dangerous substances within the regulated
6 industry and among interested groups and organizations;
- 7 3. Assist the regulated industry, interested groups and
8 organizations in contributing to the reduction of misuse and abuse
9 of controlled dangerous substances;
- 10 4. Consult with interested groups and organizations to aid them
11 in solving administrative and organizational problems;
- 12 5. Assist in evaluating procedures, projects, techniques and
13 controls conducted or proposed as part of educational programs on
14 misuse and abuse of controlled dangerous substances;
- 15 6. Disseminate the results of research on misuse and abuse of
16 controlled dangerous substances to promote a better public
17 understanding of what problems exist and what can be done to combat
18 them;
- 19 7. Assist in the education and training of state and local law
20 enforcement officials in their efforts to control misuse and abuse
21 of controlled dangerous substances;
- 22 8. Conduct an annual seminar to be attended by selected law
23 enforcement officers in order to teach new techniques and advances

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

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

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

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

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

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

14 a. develop new or improved approaches, techniques,
15 systems, equipment and devices to strengthen the
16 enforcement of this act,

17 b. determine patterns of misuse and abuse of controlled
18 dangerous substances and the social effects thereof,
19 and

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

1 E. The Director shall prepare a yearly report on all deaths and
2 nonfatal overdoses which were the result or probable result of abuse
3 of a controlled dangerous substance. The yearly report shall be
4 limited to statistical information including, but not limited to,
5 the county where the death or nonfatal overdose occurred, age, race,
6 gender, type of controlled dangerous substances involved in the
7 death or nonfatal overdose, and the method in which the controlled
8 dangerous substance was obtained by the person, when available.

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

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

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

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

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

14 ~~F.~~ K. The Director is authorized to purchase or sell real
15 property, together with appurtenances, in the name of the Oklahoma
16 State Bureau of Narcotics and Dangerous Drugs Control upon approval
17 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
18 Control Commission.

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

21 ~~L.~~ M. The Director shall be in charge of all monies
22 appropriated for or deposited to the credit of the office of the

1 Director and is authorized to approve claims and payrolls as
2 provided in Section 41.26 of Title 62 of the Oklahoma Statutes.

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

6 SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-309D, as
7 last amended by Section 4, Chapter 128, O.S.L. 2005 (63 O.S. Supp.
8 2009, Section 2-309D), is amended to read as follows:

9 Section 2-309D. A. The information collected at the central
10 repository pursuant to the Anti-Drug Diversion Act shall be
11 confidential and shall not be open to the public. Access to the
12 information shall be limited to:

13 1. Peace officers certified pursuant to Section 3311 of Title
14 70 of the Oklahoma Statutes who are employed as investigative agents
15 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
16 Control;

17 2. The United States Drug Enforcement Administration Diversion
18 Group Supervisor;

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

21 a. Board of Podiatric Medical Examiners,

22 b. Board of Dentistry,

23 c. State Board of Pharmacy,

- 1 d. State Board of Medical Licensure and Supervision,
2 e. State Board of Osteopathic Examiners, ~~and~~
3 f. State Board of Veterinary Medical Examiners, and
4 g. Oklahoma Health Care Authority;

5 provided, however, that the executive director or chief investigator
6 of each of these boards shall be limited to access to information
7 relevant to licensees of the employing board of such executive
8 director or chief investigator; and

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

12 B. This section shall not prevent the disclosure, at the
13 discretion of the Director of the Oklahoma Bureau of Narcotics and
14 Dangerous Drugs Control, of investigative information to peace
15 officers and investigative agents of federal, state, county or
16 municipal law enforcement agencies, district attorneys and the
17 Attorney General in furtherance of criminal investigations or
18 prosecutions within their respective jurisdictions, and to
19 registrants in furtherance of efforts to guard against the diversion
20 of controlled dangerous substances.

21 C. Any unauthorized disclosure of any information collected at
22 the central repository provided by the Anti-Drug Diversion Act shall
23 be a misdemeanor. Violation of the provisions of this section shall

1 be deemed willful neglect of duty and shall be grounds for removal
2 from office.

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

13 E. Information regarding nonfatal overdoses, other than
14 statistical information as required by Section 2-106 of this title,
15 shall be completely confidential. Access to this information shall
16 be strictly limited to the Director of the Oklahoma State Bureau of
17 Narcotics and Dangerous Drugs Control or designee, the Chief Medical
18 Examiner, and the registrant that enters the information.
19 Registrants shall not be liable to any person for a claim of damages
20 for information reported pursuant to the provisions of Section 2-105
21 of this title.

22 SECTION 4. This act shall become effective November 1, 2010.

23 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated
24 3-25-10 - DO PASS, As Coauthored.