

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 1272

By: Nichols of the Senate

3 and

4 Martin (Scott) of the House

5

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7 (controlled dangerous substances - Anti-Drug

8 Diversion Act - access to information -

9 effective date)

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12 AUTHORS: Add the following House Coauthors: Remove Martin (Scott)
13 as principal House author and substitute with Derby as
principal House author and add Morrissette as coauthor

14 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
15 entire bill and insert

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18 "(controlled dangerous substances - Anti-Drug

19 Diversion Act - access to information -

20 effective date)

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

24 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-106, is

amended to read as follows:

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

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

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

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

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

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

22 B. Results, information and evidence received from the Oklahoma
23 State Bureau of Narcotics and Dangerous Drugs Control relating to
24 the regulatory functions of this act, including results of

1 inspections conducted by that agency, may be relied upon and acted
2 upon by the Director in conformance with the regulatory functions
3 under this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 a. develop new or improved approaches, techniques,
20 systems, equipment and devices to strengthen the
21 enforcement of this act,

22 b. determine patterns of misuse and abuse of controlled
23 dangerous substances and the social effects thereof,
24 and

1 c. improve methods for preventing, predicting,
2 understanding and dealing with the misuse and abuse of
3 controlled dangerous substances.

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

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

17 G. The Director may enter into contracts for educational and
18 research activities without performance bonds.

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

1 identify the subjects of research for which such authorization was
2 obtained.

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

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

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

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

23 M. The Director shall be in charge of all monies appropriated
24 for or deposited to the credit of the office of the Director and is

1 authorized to approve claims and payrolls as provided in Section
2 ~~41.26~~ 34.68 of Title 62 of the Oklahoma Statutes.

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

6 O. Upon determining that a practitioner is prescribing a
7 controlled dangerous substance to a person that has sought to fill
8 or refill multiple prescriptions for controlled dangerous
9 substances, the Director shall provide written notification alerting
10 the practitioner to the possibility that the person may be
11 unlawfully obtaining prescription drugs in violation of the Uniform
12 Controlled Dangerous Substances Act.

13 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-309D, is
14 amended to read as follows:

15 Section 2-309D. A. The information collected at the central
16 repository pursuant to the Anti-Drug Diversion Act shall be
17 confidential and shall not be open to the public. Access to the
18 information shall be limited to:

19 1. Peace officers certified pursuant to Section 3311 of Title
20 70 of the Oklahoma Statutes who are employed as investigative agents
21 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
22 Control;

23 2. The United States Drug Enforcement Administration Diversion
24 Group Supervisor;

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

- 3 a. Board of Podiatric Medical Examiners,
- 4 b. Board of Dentistry,
- 5 c. State Board of Pharmacy,
- 6 d. State Board of Medical Licensure and Supervision,
- 7 e. State Board of Osteopathic Examiners,
- 8 f. State Board of Veterinary Medical Examiners, ~~and~~
- 9 g. Board of Examiners in Optometry,
- 10 h. Oklahoma Board of Nursing, and
- 11 i. Oklahoma Health Care Authority;

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

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

19 B. On receipt of a request from a requestor described in
20 paragraph 3 of subsection A of this section who is from or is
21 participating with a prescription monitoring program of another
22 state, the Bureau may provide to the requestor information from the
23 central repository, but only if there is a written agreement under
24

1 which the information is to be used and disseminated according to
2 the laws of this state.

3 C. This section shall not prevent the disclosure, at the
4 discretion of the Director of the Oklahoma Bureau of Narcotics and
5 Dangerous Drugs Control, of investigative information to peace
6 officers and investigative agents of federal, state, county or
7 municipal law enforcement agencies, district attorneys and the
8 Attorney General in furtherance of criminal investigations or
9 prosecutions within their respective jurisdictions, and to
10 registrants in furtherance of efforts to guard against the diversion
11 of controlled dangerous substances.

12 ~~C.~~ D. Any unauthorized disclosure of any information collected
13 at the central repository provided by the Anti-Drug Diversion Act
14 shall be a misdemeanor. Violation of the provisions of this section
15 shall be deemed willful neglect of duty and shall be grounds for
16 removal from office.

17 ~~D.~~ E. Notwithstanding the provisions of subsection ~~B~~ C of this
18 section, registrants shall have no requirement or obligation to
19 access or check the information in the central repository prior to
20 dispensing or administering medications or as part of their
21 professional practices. Registrants shall not be liable to any
22 person for any claim of damages as a result of accessing or failing
23 to access the information in the central repository and no lawsuit
24 may be predicated thereon. Nothing herein shall be construed to

1 relieve a registrant from any duty to monitor and report the sales
2 of certain products pursuant to subsection ~~E~~ G of Section 2-309C of
3 this title.

4 ~~E~~. F. Information regarding nonfatal overdoses, other than
5 statistical information as required by Section 2-106 of this title,
6 shall be completely confidential. Access to this information shall
7 be strictly limited to the Director of the Oklahoma State Bureau of
8 Narcotics and Dangerous Drugs Control or designee, the Chief Medical
9 Examiner, and the registrant that enters the information.

10 Registrants shall not be liable to any person for a claim of damages
11 for information reported pursuant to the provisions of Section 2-105
12 of this title.

13 SECTION 3. AMENDATORY 63 O.S. 2011, Section 2-309F, is
14 amended to read as follows:

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

17 1. Be capable of providing the collected information in forms
18 required by the Oklahoma State Bureau of Narcotics and Dangerous
19 Drugs Control, including but not limited to, dispensations by
20 prescriber name or registration number, dispenser name or
21 registration number, recipient name or identification number, type
22 of substance, frequency, quantity, and location of dispensation;

23 2. Be capable of generating an alert that provides notification
24 to a person authorized to dispense or prescribe a controlled

1 dangerous substance that a person is attempting to refill a
2 prescription for a controlled dangerous substance that was
3 previously dispensed to the person within the preceding thirty (30)
4 days. Upon receipt of an alert from the central repository, the
5 person shall be prohibited from receiving a refill prescription from
6 a prescriber or from having the prescription refilled by a
7 dispenser;

8 3. Provide the Bureau with continual, twenty-four-hour per day,
9 on-line access to the collected information;

10 ~~3.~~ 4. Secure the collected information against access by
11 unauthorized persons;

12 ~~4.~~ 5. Provide the Bureau, in a reasonable time, with all
13 collected information in a format readily usable by the Bureau, in
14 the event the relationship between the state and central repository
15 is terminated; and

16 ~~5.~~ 6. Not withhold access to the collected information for any
17 reason other than failure of the Bureau to timely pay agreed fees
18 and charges for use of the central repository.

19 B. The Bureau is authorized to enter into a contract with a
20 vendor to serve as the central repository provided for in the Anti-
21 Drug Diversion Act or to purchase the necessary equipment to create
22 the central repository within the Bureau. The central repository
23 shall not be subject to the provisions of Sections 34.6 through
24 34.33 of Title 62 of the Oklahoma Statutes and shall be maintained

