

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2941

6 By: Derby

7 COMMITTEE SUBSTITUTE

8 An Act relating to public health and safety;  
9 requiring pharmacies to maintain electronic records  
10 of nonprescription pseudoephedrine or ephedrine  
11 sales; providing list of information to be collected;  
12 providing alternate means for recording certain  
13 information; directing pharmacies to have approved  
14 equipment in place by a certain date; providing  
15 description of electronic methamphetamine precursor  
16 tracking functions; providing for the selection of a  
17 vendor by certain date; directing pharmacies to  
18 electronically submit information prior to completing  
19 the sale of certain products; providing an exception;  
20 making pharmacies exempt from liability under certain  
21 circumstances; providing for the confidentiality of  
22 information collected; authorizing access of data to  
23 certain persons; authorizing use of alternate logging  
24 systems under certain circumstances; authorizing  
exemptions for certain pharmacies; providing  
requirements and guidelines for exporting data;  
providing procedures for stop-sale alerts; making  
certain actions unlawful; providing penalty; amending  
63 O.S. 2011, Section 2-212, which relates to  
Schedule V substances; modifying pseudoephedrine  
purchasing restrictions; prohibiting sales of  
products under certain circumstances; prohibiting  
mandatory protocols or procedures on dispensing  
decisions made by pharmacists; deleting liquid  
capsule exception; deleting certain definitions;  
amending 63 O.S. 2011, Section 2-309C, which relates  
to the Anti-Drug Diversion Act; deleting requirement  
to transmit data for certain products to the central  
repository; deleting authority of the Oklahoma State  
Bureau of Narcotics and Dangerous Drugs Control to

1 implement certain monitoring program; amending 63  
2 O.S. 2011, Section 2-401, which relates to penalties  
3 for prohibited acts; providing penalty for certain  
4 unlawful act; amending 63 O.S. 2011, Section 2-701,  
5 which relates to the methamphetamine offender  
6 registry; deleting certain exception; modifying  
7 references to certain monitoring programs; requiring  
8 stop-sale alerts under certain circumstances;  
9 modifying time limitation for submitting judgment and  
10 sentences; directing the Oklahoma State Bureau of  
11 Narcotics and Dangerous Drugs Control to transmit  
12 registry information to the electronic  
13 methamphetamine precursor tracking service; requiring  
14 transmission of certain data; providing for stop-sale  
15 alerts; directing Bureau to notify tracking service  
16 upon certain occurrences; providing for the removal  
17 of names from tracking service; providing for  
18 codification; and providing an effective date.

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

13 SECTION 1. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 2-341 of Title 63, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. Beginning January 1, 2013, any pharmacy that dispenses,  
17 sells or distributes any compound mixture or preparation containing  
18 any detectable quantity of base pseudoephedrine or ephedrine, its  
19 salts or optical isomers, or salts of optical isomers shall maintain  
20 an electronic record of the sale. The electronic record of the sale  
21 shall include the following information:

- 22 1. Name and address of the purchaser;
- 23 2. Date of birth of the purchaser;
- 24 3. Type of identification and number;

1 4. Date and time of the purchase;

2 5. Name and quantity of base pseudoephedrine or ephedrine  
3 purchased in grams, but not the overall weight of the products; and

4 6. Name, initials and registration number of the licensed  
5 pharmacist or registered pharmacy technician.

6 If the electronic tracking service is not able to record the  
7 identification type and identification number of the purchaser, the  
8 licensed pharmacist or a registered pharmacy technician shall write  
9 the identification type and number on the order. The electronic  
10 record shall also be maintained in a manner that allows for the  
11 determination of the equivalent number of packages purchased and  
12 total quantity of base ephedrine or pseudoephedrine purchased.

13 B. By January 1, 2013, each pharmacy in this state shall have  
14 in place and operational all equipment necessary to access and use a  
15 real-time electronic methamphetamine precursor tracking service  
16 which is approved by the Oklahoma State Bureau of Narcotics and  
17 Dangerous Drugs Control. The electronic methamphetamine precursor  
18 tracking service shall be available free of charge to all law  
19 enforcement agencies within the state for purposes of viewing and  
20 searching the database. Pharmacies shall be permitted to access  
21 only the information that is submitted by said pharmacy and such  
22 access shall be available free of charge. The electronic  
23 methamphetamine precursor tracking service shall be self-sustaining  
24 and shall not require the use of state or federal taxpayer dollars

1 to operate. The tracking service shall operate and communicate in  
2 real-time throughout the state and across state lines with similar  
3 multistate systems. The tracking service shall be capable of  
4 tracking all required information and generating a stop-sale alert  
5 to notify a pharmacy that an attempted purchase by a person of  
6 pseudoephedrine or ephedrine exceeds the quantity limits set forth  
7 in Section 2-212 of Title 63 of the Oklahoma Statutes. The tracking  
8 service shall have the capability of stopping an illegal purchase in  
9 real-time and shall contain an override function that allows a  
10 pharmacy to complete a sale in violation of this section if the  
11 circumstances require that such sale be completed. The tracking  
12 service shall be in real time and track all override sales made by  
13 the pharmacy. The Bureau shall select a vendor that meets the  
14 requirements specified in this section by no later than October 1,  
15 2012.

16 C. Beginning January 1, 2013, before completing the sale of an  
17 over-the-counter product containing pseudoephedrine or ephedrine, a  
18 pharmacy shall electronically submit the required information to the  
19 electronic methamphetamine precursor tracking service. The pharmacy  
20 shall not complete the sale of the product if the electronic  
21 methamphetamine precursor tracking service generates a stop-sale  
22 alert.

23 D. Absent negligence, wantonness, recklessness, or deliberate  
24 misconduct, any pharmacy utilizing the electronic methamphetamine

1 precursor tracking service in accordance with this section shall not  
2 be civilly liable as a result of any act or omission in carrying out  
3 the duties required by this section. Such pharmacies shall also be  
4 immune from liability to any third party unless the pharmacy has  
5 violated a provision of this section in relation to a claim brought  
6 for such violation. The provisions of this section shall not apply  
7 to a person who obtains the product or products pursuant to a valid  
8 prescription.

9 E. The information entered, stored and maintained by the  
10 electronic methamphetamine precursor tracking service shall be  
11 confidential and shall only be accessed by law enforcement  
12 officials, health care professionals and licensed pharmacists for  
13 the purpose of controlling the sale of methamphetamine precursors.

14 F. If a pharmacy selling an over-the-counter product containing  
15 pseudoephedrine or ephedrine experiences mechanical or electronic  
16 failure of the electronic tracking service and is unable to comply  
17 with the provisions of this section, the pharmacy shall maintain a  
18 written log until such time as the pharmacy is able to comply with  
19 the electronic tracking service requirements.

20 G. A pharmacy selling an over-the-counter product containing  
21 pseudoephedrine or ephedrine may seek an exemption from submitting  
22 transactions to the electronic tracking service in writing to the  
23 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
24 stating the reasons for such exemption. The Bureau may grant an

1 exemption for good cause, but in no event shall such exemption  
2 exceed one hundred eighty (180) days. Any pharmacy that receives an  
3 exemption shall maintain a hard-copy logbook and shall require the  
4 purchaser to provide the information required pursuant to subsection  
5 A of this section before completion of any sale. The logbook shall  
6 be maintained as a record of each sale for inspection by any law  
7 enforcement official during normal business hours.

8 H. All data that is collected from the pharmacies of this state  
9 and stored in the electronic methamphetamine precursor tracking  
10 service shall be downloaded and exported by electronic means to the  
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control at  
12 least every twenty-four (24) hours. The export of data shall be in  
13 a version that is in compliance with the standards agreed to by both  
14 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
15 and the provider of the electronic methamphetamine precursor  
16 tracking service. The export of data shall be executed by way of a  
17 memorandum of understanding and without charge to the Oklahoma State  
18 Bureau of Narcotics and Dangerous Drugs Control. Any and all data  
19 exported to, obtained by, gathered by, transmitted to or stored by  
20 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
21 or its designee shall be the property of the state. The Oklahoma  
22 State Bureau of Narcotics and Dangerous Drugs Control shall have the  
23 authority to control, administer, and disseminate, at the discretion  
24 of the Bureau, the transaction data for the purpose of enforcing

1 federal and state laws. In addition to exporting data to the  
2 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,  
3 real-time access to information contained in the electronic  
4 methamphetamine precursor tracking service through an online portal  
5 shall be provided to all law enforcement agencies within the state  
6 free of charge.

7 I. The electronic methamphetamine precursor tracking service  
8 shall generate a stop-sale alert if completion of a sale would  
9 result in the seller or purchaser violating the quantity limits set  
10 forth in Section 2-212 of Title 63 of the Oklahoma Statutes. The  
11 electronic tracking service shall contain an override function that  
12 may be used by a dispenser of pseudoephedrine or ephedrine products  
13 who has a reasonable fear of imminent bodily harm if the sale is not  
14 completed. Each instance in which the override function is utilized  
15 shall be logged by the electronic tracking service.

16 J. A person who violates any of the provisions of this section  
17 shall, upon conviction, be guilty of a misdemeanor punishable by a  
18 fine of not more than One Thousand Dollars (\$1,000.00). If the  
19 person convicted is a licensed pharmacist or registered pharmacy  
20 technician, the violation shall be reported to the State Board of  
21 Pharmacy for review and appropriate action.

22 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-212, is  
23 amended to read as follows:

24

1 Section 2-212. A. The controlled substances listed in this  
2 section are included in Schedule V.

3 1. Any compound, mixture, or preparation containing limited  
4 quantities of any of the following narcotic drugs, which also  
5 contains one or more nonnarcotic active medicinal ingredients in  
6 sufficient proportion to confer upon the compound, mixture, or  
7 preparation, valuable medicinal qualities other than those possessed  
8 by the narcotic drug alone:

9 a. not more than two hundred (200) milligrams of codeine,  
10 or any of its salts, per one hundred (100) milliliters  
11 or per one hundred (100) grams,

12 b. not more than one hundred (100) milligrams of  
13 dihydrocodeine, or any of its salts, per one hundred  
14 (100) milliliters or per one hundred (100) grams,

15 c. not more than one hundred (100) milligrams of  
16 ethylmorphine, or any of its salts, per one hundred  
17 (100) milliliters or per one hundred (100) grams,

18 d. not more than two and five-tenths (2.5) milligrams of  
19 diphenoxylate and not less than twenty-five (25)  
20 micrograms of atropine sulfate per dosage unit, or

21 e. not more than one hundred (100) milligrams of opium  
22 per one hundred (100) milliliters or per one hundred  
23 (100) grams.

24

1        2. Any compound, mixture, or preparation containing any  
2 detectable quantity of base pseudoephedrine or ephedrine, its salts  
3 or optical isomers, or salts of optical isomers. If any compound,  
4 mixture, or preparation as specified in this paragraph is dispensed,  
5 sold, or distributed in a pharmacy:

6            a. it shall be dispensed, sold, or distributed only by,  
7                    or under the supervision of, a licensed pharmacist or  
8                    a registered pharmacy technician, and

9            b. any person purchasing, receiving, or otherwise  
10                    acquiring any compound, mixture, or preparation shall  
11                    produce a driver license, passport, military  
12                    identification, or other state-issued identification  
13                    card and shall sign a written or electronic log,  
14                    receipt, or other program or mechanism approved by the  
15                    Oklahoma Bureau of Narcotics and Dangerous Drugs  
16                    Control, showing:

- 17                    (1) the date and time of the transaction,  
18                    (2) name, address and date of birth of the purchaser,  
19                    (3) driver license number, passport, military  
20                    identification, or state-issued identification  
21                    number and state of residence of the purchaser,  
22                    (4) name and initials of the pharmacist or pharmacy  
23                    technician conducting the transaction,  
24                    (5) the product being sold, and

1 (6) total quantity, in grams ~~or milligrams~~, of base  
2 pseudoephedrine or ephedrine purchased.

3 No person shall purchase, receive, or otherwise acquire more  
4 than ~~nine (9)~~ three and six-tenths (3.6) grams of any product,  
5 mixture, or preparation per day or more than seven and two-tenths  
6 (7.2) grams of any product, mixture, or preparation within any  
7 thirty-day period or sixty (60) grams of any product, mixture, or  
8 preparation within a twelve-month period. Once a person has  
9 purchased, received or otherwise acquired the daily limit of three  
10 and six-tenths (3.6) grams of any product, mixture or preparation,  
11 the person shall be prohibited from purchasing, receiving or  
12 otherwise acquiring any additional product, mixture or preparation  
13 containing any detectable quantity of base pseudoephedrine or  
14 ephedrine for a period of not less than seventy-two (72) hours  
15 following the last permitted purchase. ~~Provided, the~~ The  
16 requirements of this ~~subsection~~ paragraph shall not apply to any  
17 quantity of such product, mixture or preparation dispensed pursuant  
18 to a valid prescription. There shall be no protocol or procedure  
19 mandated by any individual or corporate entity that interferes with  
20 the professional duty of a pharmacist to counsel and evaluate the  
21 appropriate pharmaceutical needs of a patient and the exercise of  
22 the professional judgment of a pharmacist as to whether it is  
23 appropriate to dispense medication as set forth in this paragraph or  
24 otherwise.

1       3. Any compound, mixture, or preparation containing any  
2 detectable quantity of pregabalin.

3       ~~B. The Schedule, as specified in paragraph 2 of subsection A,~~  
4 ~~shall not apply to any compounds, mixtures, or preparations which~~  
5 ~~are in liquid, liquid capsule, or gel capsule form if~~  
6 ~~pseudoephedrine is not the only active ingredient.~~

7       C. The Director of the Oklahoma State Bureau of Narcotics and  
8 Dangerous Drugs Control, by rule, may exempt other products from  
9 this Schedule which the Director finds are not used in the illegal  
10 manufacture of methamphetamine or other controlled dangerous  
11 substances. A manufacturer of a drug product may apply for removal  
12 of the product from the Schedule if the product is determined by the  
13 Director to have been formulated in such a way as to effectively  
14 prevent the conversion of the active ingredient into  
15 methamphetamine.

16       ~~D. As used in this section:~~

17       ~~1. "Gel capsule" means any soft gelatin, liquid-filled capsule~~  
18 ~~that contains a liquid suspension, which, in the case of~~  
19 ~~pseudoephedrine, is suspended in a matrix of glycerin, polyethylene~~  
20 ~~glycol, and propylene glycol, along with other liquid substances.~~  
21 ~~Regardless of product manufacturer labeling, a gelatin-covered solid~~  
22 ~~does not constitute a gel capsule under this definition; and~~

23

24

1       2. ~~"Active ingredient" shall include the matrix of glycerin,~~  
2 ~~polyethylene glycol, and propylene glycol that is found in liquid~~  
3 ~~capsules.~~

4       SECTION 3.       AMENDATORY       63 O.S. 2011, Section 2-309C, is  
5 amended to read as follows:

6       Section 2-309C. A. A dispenser of a Schedule II, III, IV or V  
7 controlled dangerous substance ~~including any compound mixture or~~  
8 ~~preparation containing any detectable quantity of pseudoephedrine,~~  
9 ~~its salts or optical isomers, or salts of optical isomers~~ when  
10 dispensed pursuant to a valid prescription shall transmit to a  
11 central repository designated by the Oklahoma State Bureau of  
12 Narcotics and Dangerous Drugs Control using the American Society for  
13 Automation in Pharmacy's (ASAP) Telecommunications Format for  
14 Controlled Substances version designated in rules by the Oklahoma  
15 State Bureau of Narcotics and Dangerous Drugs Control, the following  
16 information for each dispensation:

- 17       1. Recipient's name;
- 18       2. Recipient's address;
- 19       3. Recipient's date of birth;
- 20       4. Recipient's identification number;
- 21       5. National Drug Code number of the substance dispensed;
- 22       6. Date of the dispensation;
- 23       7. Quantity of the substance dispensed;

1 8. Prescriber's United States Drug Enforcement Agency  
2 registration number;

3 9. Dispenser's registration number; and

4 10. Other information as required by administrative rule.

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

7 1. In a format or other media designated acceptable by the  
8 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; and

9 2. Within twenty-four (24) hours of the time that the substance  
10 is dispensed. Beginning January 1, 2012, all information shall be  
11 submitted on a real-time log.

12 C. When a prescription is written or dispensed to a resident of  
13 a nursing home or a person who is under the care of a hospice  
14 program licensed pursuant to the provisions of the Oklahoma Hospice  
15 Licensing Act who does not have an identification card issued by the  
16 state or another form of a recipient identification number pursuant  
17 to Section 2-309B of this title, a Social Security number may be  
18 used for the purpose of complying with the reporting requirements  
19 provided for in this section.

20 D. The provisions of subsection B of this section shall not  
21 apply to a nonresident drug outlet registered pursuant to the  
22 Oklahoma Pharmacy Act or to a resident drug outlet as defined in  
23 Section 353.1 of Title 59 of the Oklahoma Statutes if the  
24 nonresident or resident drug outlet mails or delivers a controlled

1 substance to a patient or client. Nonresident and resident drug  
2 outlets shall transmit the information required in this section  
3 within seven (7) days of the date that the controlled substance is  
4 dispensed.

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

11 F. The Director of the Bureau shall have the authority to allow  
12 paper submissions on a form designated by the Oklahoma State Bureau  
13 of Narcotics and Dangerous Drugs Control, if the dispenser has an  
14 appropriate hardship.

15 ~~G. The Oklahoma State Bureau of Narcotics and Dangerous Drugs~~  
16 ~~Control is authorized, by any funds available to it, to implement a~~  
17 ~~real-time electronic logbook to monitor the sale of nonprescription~~  
18 ~~Schedule V products containing any detectable quantity of~~  
19 ~~pseudoephedrine, its salts or optical isomers, or salts of optical~~  
20 ~~isomers. Dispensers of such pseudoephedrine products shall report~~  
21 ~~all such sales electronically pursuant to rules promulgated by the~~  
22 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.~~

23 ~~H. The Oklahoma State Bureau of Narcotics and Dangerous Drugs~~  
24 ~~Control shall have the authority to adopt rules for the reporting of~~

1 ~~sales of Schedule V product containing any detectable quantity of~~  
2 ~~pseudoephedrine, its salts or optical isomers, or salts of optical~~  
3 ~~isomers.~~

4 SECTION 4. AMENDATORY 63 O.S. 2011, Section 2-401, is  
5 amended to read as follows:

6 Section 2-401. A. Except as authorized by the Uniform  
7 Controlled Dangerous Substances Act is shall be unlawful for any  
8 person:

9 1. To distribute, dispense, transport with intent to distribute  
10 or dispense, possess with intent to manufacture, distribute, or  
11 dispense, a controlled dangerous substance or to solicit the use of  
12 or use the services of a person less than eighteen (18) years of age  
13 to cultivate, distribute or dispense a controlled dangerous  
14 substance;

15 2. To create, distribute, transport with intent to distribute  
16 or dispense, or possess with intent to distribute, a counterfeit  
17 controlled dangerous substance; or

18 3. To distribute any imitation controlled substance as defined  
19 by Section 2-101 of this title, except when authorized by the Food  
20 and Drug Administration of the United States Department of Health  
21 and Human Services.

22 B. Any person who violates the provisions of this section with  
23 respect to:  
24

1           1. A substance classified in Schedule I or II which is a  
2 narcotic drug, lysergic acid diethylamide (LSD), gamma  
3 butyrolactone, gamma hydroxyvalerate, gamma valerolactone, 1,4  
4 butanediol, or gamma-hydroxybutyric acid as defined in Sections 2-  
5 204 and 2-208 of this title, upon conviction, shall be guilty of a  
6 felony and shall be sentenced to a term of imprisonment for not less  
7 than five (5) years nor more than life and a fine of not more than  
8 One Hundred Thousand Dollars (\$100,000.00), which shall be in  
9 addition to other punishment provided by law and shall not be  
10 imposed in lieu of other punishment. Any sentence to the custody of  
11 the Department of Corrections shall not be subject to statutory  
12 provisions for suspended sentences, deferred sentences, or probation  
13 except when the conviction is for a first offense;

14           2. Any other controlled dangerous substance classified in  
15 Schedule I, II, III, or IV, upon conviction, shall be guilty of a  
16 felony and shall be sentenced to a term of imprisonment for not less  
17 than two (2) years nor more than life and a fine of not more than  
18 Twenty Thousand Dollars (\$20,000.00), which shall be in addition to  
19 other punishment provided by law and shall not be imposed in lieu of  
20 other punishment. Any sentence to the custody of the Department of  
21 Corrections shall not be subject to statutory provisions for  
22 suspended sentences, deferred sentences, or probation except when  
23 the conviction is for a first offense;

24

1           3. A substance classified in Schedule V, upon conviction, shall  
2 be guilty of a felony and shall be sentenced to a term of  
3 imprisonment for not more than five (5) years and a fine of not more  
4 than One Thousand Dollars (\$1,000.00), which shall be in addition to  
5 other punishment provided by law and shall not be imposed in lieu of  
6 other punishment; or

7           4. An imitation controlled substance as defined by Section 2-  
8 101 of this title, upon conviction, shall be guilty of a misdemeanor  
9 and shall be sentenced to a term of imprisonment in the county jail  
10 for a period of not more than one (1) year and a fine of not more  
11 than One Thousand Dollars (\$1,000.00). A person convicted of a  
12 second violation of the provisions of this paragraph shall be guilty  
13 of a felony and shall be sentenced to a term of imprisonment for not  
14 more than five (5) years and a fine of not more than Five Thousand  
15 Dollars (\$5,000.00), which shall be in addition to other punishment  
16 provided by law and shall not be imposed in lieu of other  
17 punishment.

18           C. 1. Except when authorized by the Food and Drug  
19 Administration of the United States Department of Health and Human  
20 Services, it shall be unlawful for any person to manufacture,  
21 cultivate, distribute, or possess with intent to distribute a  
22 synthetic controlled substance.

23           2. Any person convicted of violating the provisions of this  
24 paragraph is guilty of a felony and shall be punished by

1 imprisonment in the State Penitentiary for a term not to exceed life  
2 and a fine of not more than Twenty-five Thousand Dollars  
3 (\$25,000.00), which shall be in addition to other punishment  
4 provided by law and shall not be imposed in lieu of other  
5 punishment.

6 3. A second or subsequent conviction for the violation of the  
7 provisions of this paragraph is a felony punishable as a habitual  
8 offender pursuant to Section 51.1 of Title 21 of the Oklahoma  
9 Statutes.

10 4. In addition the violator shall be fined an amount not more  
11 than One Hundred Thousand Dollars (\$100,000.00), which shall be in  
12 addition to other punishment provided by law and shall not be  
13 imposed in lieu of other punishment.

14 D. 1. Any person convicted of a second or subsequent felony  
15 violation of the provisions of this section, except for paragraph 4  
16 of subsection B of this section, shall be punished as a habitual  
17 offender pursuant to Section 51.1 of Title 21 of the Oklahoma  
18 Statutes.

19 2. In addition the violator shall be fined twice the fine  
20 otherwise authorized, which shall be in addition to other punishment  
21 provided by law and shall not be imposed in lieu of other  
22 punishment.

23 3. Convictions for second or subsequent violations of the  
24 provisions of this section shall not be subject to statutory

1 provisions for suspended sentences, deferred sentences, or  
2 probation.

3 E. Any person who is at least eighteen (18) years of age and  
4 who violates the provisions of this section by using or soliciting  
5 the use of services of a person less than eighteen (18) years of age  
6 to distribute, dispense, transport with intent to distribute or  
7 dispense or cultivate a controlled dangerous substance or by  
8 distributing a controlled dangerous substance to a person under  
9 eighteen (18) years of age is punishable by twice the fine and by  
10 twice the imprisonment otherwise authorized.

11 F. Any person who violates any provision of this section by  
12 transporting with intent to distribute or dispense, distributing or  
13 possessing with intent to distribute a controlled dangerous  
14 substance to a person, or violation of subsection G of this section,  
15 in or on, or within two thousand (2,000) feet of the real property  
16 comprising a public or private elementary or secondary school,  
17 public vocational school, public or private college or university,  
18 or other institution of higher education, recreation center or  
19 public park, including state parks and recreation areas, public  
20 housing project, or child care facility as defined by Section 402 of  
21 Title 10 of the Oklahoma Statutes shall be punished by:

22 1. For a first offense, a term of imprisonment, or by the  
23 imposition of a fine or by both, not exceeding twice that authorized  
24 by the appropriate provision of this section and shall serve a

1 minimum of fifty percent (50%) of the sentence received prior to  
2 becoming eligible for state correctional institution earned credits  
3 toward the completion of said sentence; or

4 2. For a second or subsequent offense, a term of imprisonment  
5 as provided for a habitual offender pursuant to Section 51.1 of  
6 Title 21 of the Oklahoma Statutes. In addition the violator shall  
7 serve eighty-five percent (85%) of the sentence received prior to  
8 becoming eligible for state correctional institution earned credits  
9 toward the completion of said sentence or eligibility for parole.

10 G. 1. Except as authorized by the Uniform Controlled Dangerous  
11 Substances Act, it shall be unlawful for any person to manufacture  
12 or attempt to manufacture any controlled dangerous substance or  
13 possess any substance listed in Section 2-322 of this title or any  
14 substance containing any detectable amount of pseudoephedrine or its  
15 salts, optical isomers or salts of optical isomers, iodine or its  
16 salts, optical isomers or salts of optical isomers, hydriodic acid,  
17 sodium metal, lithium metal, anhydrous ammonia, phosphorus, or  
18 organic solvents with the intent to use that substance to  
19 manufacture a controlled dangerous substance.

20 2. Any person violating the provisions of this subsection with  
21 respect to the unlawful manufacturing or attempting to unlawfully  
22 manufacture any controlled dangerous substance, or possessing any  
23 substance listed in this subsection or Section 2-322 of this title,  
24 upon conviction, is guilty of a felony and shall be punished by

1 imprisonment in the State Penitentiary for not less than seven (7)  
2 years nor more than life and by a fine of not less than Fifty  
3 Thousand Dollars (\$50,000.00), which shall be in addition to other  
4 punishment provided by law and shall not be imposed in lieu of other  
5 punishment. The possession of any amount of anhydrous ammonia in an  
6 unauthorized container shall be prima facie evidence of intent to  
7 use such substance to manufacture a controlled dangerous substance.

8 3. Any person violating the provisions of this subsection with  
9 respect to the unlawful manufacturing or attempting to unlawfully  
10 manufacture any controlled dangerous substance in the following  
11 amounts:

12 a. one (1) kilogram or more of a mixture or substance  
13 containing a detectable amount of heroin,

14 b. five (5) kilograms or more of a mixture or substance  
15 containing a detectable amount of:

16 (1) coca leaves, except coca leaves and extracts of  
17 coca leaves from which cocaine, ecgonine, and  
18 derivatives of ecgonine or their salts have been  
19 removed,

20 (2) cocaine, its salts, optical and geometric  
21 isomers, and salts of isomers,

22 (3) ecgonine, its derivatives, their salts, isomers,  
23 and salts of isomers, or  
24

1 (4) any compound, mixture, or preparation which  
2 contains any quantity of any of the substances  
3 referred to in divisions (1) through (3) of this  
4 subparagraph,

5 c. fifty (50) grams or more of a mixture or substance  
6 described in division (2) of subparagraph b of this  
7 paragraph which contains cocaine base,

8 d. one hundred (100) grams or more of phencyclidine (PCP)  
9 or 1 kilogram or more of a mixture or substance  
10 containing a detectable amount of phencyclidine (PCP),

11 e. ten (10) grams or more of a mixture or substance  
12 containing a detectable amount of lysergic acid  
13 diethylamide (LSD),

14 f. four hundred (400) grams or more of a mixture or  
15 substance containing a detectable amount of N-phenyl-  
16 N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100  
17 grams or more of a mixture or substance containing a  
18 detectable amount of any analogue of N-phenyl-N-[1-(2-  
19 phenylethyl)-4-piperidinyl] propanamide,

20 g. one thousand (1,000) kilograms or more of a mixture or  
21 substance containing a detectable amount of marihuana  
22 or one thousand (1000) or more marihuana plants  
23 regardless of weight, or  
24

1           h.    fifty (50) grams or more of methamphetamine, its  
2                    salts, isomers, and salts of its isomers or 500 grams  
3                    or more of a mixture or substance containing a  
4                    detectable amount of methamphetamine, its salts,  
5                    isomers, or salts of its isomers,  
6 upon conviction, is guilty of aggravated manufacturing a controlled  
7 dangerous substance punishable by imprisonment in the State  
8 Penitentiary for not less than twenty (20) years nor more than life  
9 and by a fine of not less than Fifty Thousand Dollars (\$50,000.00),  
10 which shall be in addition to other punishment provided by law and  
11 shall not be imposed in lieu of other punishment. Any person  
12 convicted of a violation of the provisions of this paragraph shall  
13 be required to serve a minimum of eighty-five percent (85%) of the  
14 sentence received prior to becoming eligible for state correctional  
15 earned credits towards the completion of the sentence or eligible  
16 for parole.

17           4. Any sentence to the custody of the Department of Corrections  
18 for any violation of paragraph 3 of this subsection shall not be  
19 subject to statutory provisions for suspended sentences, deferred  
20 sentences, or probation. A person convicted of a second or  
21 subsequent violation of the provisions of paragraph 3 of this  
22 subsection shall be punished as a habitual offender pursuant to  
23 Section 51.1 of Title 21 of the Oklahoma Statutes and shall be  
24 required to serve a minimum of eighty-five percent (85%) of the

1 sentence received prior to becoming eligible for state correctional  
2 earned credits or eligibility for parole.

3 5. Any person who has been convicted of manufacturing or  
4 attempting to manufacture methamphetamine pursuant to the provisions  
5 of this subsection and who, within sixty (60) days after such  
6 conviction, purchases or attempts to purchase, receive or otherwise  
7 acquire any product, mixture, or preparation containing any  
8 detectable quantity of base pseudoephedrine or ephedrine shall, upon  
9 conviction, be guilty of a felony punishable by imprisonment in the  
10 custody of the Department of Corrections for a term in the range of  
11 twice the minimum term provided for in paragraph 2 of this  
12 subsection.

13 H. Any person convicted of any offense described in the Uniform  
14 Controlled Dangerous Substances Act may, in addition to the fine  
15 imposed, be assessed an amount not to exceed ten percent (10%) of  
16 the fine imposed. Such assessment shall be paid into a revolving  
17 fund for enforcement of controlled dangerous substances created  
18 pursuant to Section 2-506 of this title.

19 I. Any person convicted of any offense described in this  
20 section shall, in addition to any fine imposed, pay a special  
21 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be  
22 deposited into the Trauma Care Assistance Revolving Fund created in  
23 Section 1-2522 of this title.

1 J. For purposes of this section, "public housing project" means  
2 any dwelling or accommodations operated as a state or federally  
3 subsidized multifamily housing project by any housing authority,  
4 nonprofit corporation or municipal developer or housing projects  
5 created pursuant to the Oklahoma Housing Authorities Act.

6 K. When a person is found guilty of a violation of the  
7 provisions of this section, the court shall order, in addition to  
8 any other penalty, the defendant to pay a one-hundred-dollar  
9 assessment to be deposited in the Drug Abuse Education and Treatment  
10 Revolving Fund created in Section 2-503.2 of this title, upon  
11 collection.

12 SECTION 5. AMENDATORY 63 O.S. 2011, Section 2-701, is  
13 amended to read as follows:

14 Section 2-701. A. There is hereby created within the Oklahoma  
15 State Bureau of Narcotics and Dangerous Drugs Control a registry of  
16 persons who, after November 1, 2010, have been convicted, whether  
17 upon a verdict or plea of guilty or upon a verdict or plea of nolo  
18 contendere, or received a suspended sentence or any deferred or  
19 probationary term, or are currently serving a sentence or any form  
20 of probation or parole for a crime or attempt to commit a crime  
21 including, but not limited to, unlawful possession, conspiring,  
22 endeavoring, manufacturing, distribution or trafficking of a  
23 precursor or methamphetamines under the provisions of Section 2-322,  
24 2-332, 2-401, 2-402, 2-408 or 2-415 of this title, or any crime

1 including, but not limited to, crimes involving the possession,  
2 distribution, manufacturing or trafficking of methamphetamines or  
3 illegal amounts of or uses of pseudoephedrine in any federal court,  
4 Indian tribal court, or any court of another state if the person is  
5 a resident of the State of Oklahoma or seeks to remain in the State  
6 of Oklahoma in excess of ten (10) days.

7 B. It shall be unlawful for any person subject to the registry  
8 created in subsection A of this section to purchase, possess or have  
9 control of any Schedule V compound, mixture, or preparation  
10 containing any detectable quantity of pseudoephedrine, its salts or  
11 optical isomers, or salts of optical isomers. ~~As provided in~~  
12 ~~Section 2-212 of this title, the provisions of this subsection shall~~  
13 ~~not apply to any compounds, mixtures, or preparations which are in~~  
14 ~~liquid, liquid capsule, or gel capsule form if pseudoephedrine is~~  
15 ~~not the only active ingredient.~~ A prescription for pseudoephedrine  
16 shall not provide an exemption for any person to this law. Any  
17 person convicted of violating the provisions of this subsection  
18 shall be guilty of a felony, punishable by imprisonment in the  
19 custody of the Department of Corrections for not less than two (2)  
20 years and not more than ten (10) years, or by a fine of not more  
21 than Five Thousand Dollars (\$5,000.00), or by both such fine and  
22 imprisonment.

23 C. The registry created in subsection A of this section shall  
24 be maintained by the Bureau. The registry shall be made available

1 for registrants who sell or dispense pseudoephedrine-related  
2 products and to law enforcement agencies for law enforcement  
3 purposes through the ~~Central Repository and the prescription~~  
4 ~~monitoring program~~ electronic methamphetamine precursor tracking  
5 service. ~~Every registrant selling, dispensing or otherwise~~  
6 ~~delivering pseudoephedrine products~~ The electronic methamphetamine  
7 precursor tracking service shall ~~deny~~ generate a stop-sale alert on  
8 any sale of pseudoephedrine to any individual listed on the  
9 methamphetamine offender registry in real time.

10 D. The registry shall consist of the following information:

11 1. Name and address of the person;

12 2. Date of birth of the person;

13 3. The offense or offenses which made the person eligible for  
14 inclusion on the registry;

15 4. The date of conviction or the date that a plea of guilty or  
16 nolo contendere was accepted by the court for any violation of an  
17 offense provided for in subsection A of this section;

18 5. The county where the offense or offenses occurred; and

19 6. Such other identifying data as the Bureau determines is  
20 necessary to properly identify the person.

21 E. Beginning November 1, 2010, all district court clerks shall  
22 forward a copy of the judgment and sentence or other applicable  
23 information relating to the disposition of the criminal case and  
24 date of birth of all persons who are subject to the provisions of

1 this act for a violation of the offenses described in subsection A  
2 of this section to the Bureau. The information shall be sent in an  
3 electronic format in a manner prescribed by the Bureau within ~~thirty~~  
4 ~~(30)~~ ten (10) days of the date of final disposition of the case.

5 Any person subject to the registry pursuant to subsection A of this  
6 section, having received a deferred sentence or conviction in a  
7 federal court, Indian tribal court, or any court of another state,  
8 shall be required to register and submit a methamphetamine offender  
9 registration form in a format prescribed by the Bureau within ten  
10 (10) days of entering the State of Oklahoma or if incarcerated in a  
11 federal institution within the boundaries of Oklahoma, within ten  
12 (10) days of release from said institution. Failure to submit the  
13 form required by this subsection shall constitute a misdemeanor.

14 F. Upon receipt of the information provided by the district  
15 court clerk, the Bureau shall transmit in an electronic format to  
16 the electronic methamphetamine precursor tracking service at least  
17 every seven (7) days the name of any person placed on the  
18 methamphetamine offender registry as provided in this section. The  
19 information transmitted to the electronic tracking service shall  
20 include the first, middle, and last name of the person, and address  
21 and the date of birth of the person. The electronic methamphetamine  
22 precursor tracking service shall be designed to generate a stop-sale  
23 alert for any person who is on the methamphetamine offender registry

24

1 and whose name, address and date of birth have been transmitted by  
2 the Bureau to the electronic tracking service.

3 G. The Bureau shall remove from the methamphetamine offender  
4 registry the name and other identifying information of a person who  
5 has been convicted of a violation of any of the offenses described  
6 in subsection A of this section ten (10) years after the date of the  
7 most recent judgment and sentence. Any person having received a  
8 deferred sentence that expires prior to the ten-year time limitation  
9 may apply to the Bureau to be removed from the registry upon the  
10 completion of the deferred sentence by providing to the Bureau a  
11 certified copy of the dismissal of the case by certified mail. The  
12 Bureau may remove the person from the methamphetamine offender  
13 registry upon expiration of the deferred sentence. The Bureau shall  
14 also be required to notify the provider of the electronic  
15 methamphetamine precursor tracking service when a person is removed  
16 from the methamphetamine offender registry. Upon notification from  
17 the Bureau, the provider of the electronic tracking service shall  
18 remove the name of the person from the electronic methamphetamine  
19 precursor tracking service and the person shall thereafter be  
20 permitted to purchase pseudoephedrine-related products.

21 ~~G.~~ H. It shall be a violation for any person to assist another  
22 person who is subject to the registry in the purchase of any  
23 pseudoephedrine products. Any person convicted of violating the  
24 provisions of this subsection shall, for a first offense, be guilty

1 of a misdemeanor, punishable by incarceration in the county jail for  
2 not more than one (1) year, or by a fine of not more than One  
3 Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.  
4 Any second or subsequent conviction for a violation of this  
5 subsection shall be a felony, punishable by incarceration in the  
6 custody of the Department of Corrections for not more than two (2)  
7 years, or by a fine of not less than Two Thousand Five Hundred  
8 Dollars (\$2,500.00) or by both such fine and imprisonment. For the  
9 purposes of this subsection, knowledge that a person was subject to  
10 the methamphetamine offender registry may be proven through court  
11 testimony or any other public notice or publicly available record  
12 including, but not limited to, court records maintained by the  
13 Oklahoma Supreme Court Network and the Oklahoma Court Information  
14 System.

15 I. On or prior to November 1, 2011, the Oklahoma State Bureau  
16 of Narcotics and Dangerous Drugs Control shall maintain a  
17 methamphetamine offender registry website available for viewing by  
18 the public.

19 SECTION 6. This act shall become effective September 1, 2012.

20  
21 53-2-9655 AM 02/22/12  
22  
23  
24