

1 ENGROSSED HOUSE  
2 BILL NO. 2941

By: Derby and Ritze of the  
House

3 and

4 Brinkley of the Senate  
5  
6  
7

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;  
providing consequences for second and subsequent  
stop-sale alerts; authorizing application for removal  
from program; requiring promulgation of rules and  
procedures; 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; requiring licensed pharmacist to make  
professional determination of legitimate medical need

1 for certain product prior to dispensing; providing  
2 factors that may be considered; authorizing adoption  
3 of certain rules and review of certain  
4 determinations; providing immunity from civil  
5 liabilities for pharmacy or licensed pharmacist in  
6 certain circumstances; making certain actions  
7 unlawful; amending 63 O.S. 2011, Section 2-309C,  
8 which relates to the Anti-Drug Diversion Act;  
9 deleting requirement to transmit data for certain  
10 products to the central repository; deleting  
11 authority of the Oklahoma State Bureau of Narcotics  
12 and Dangerous Drugs Control to implement certain  
13 monitoring program; amending 63 O.S. 2011, Section 2-  
14 401, which relates to penalties for prohibited acts;  
15 providing penalty for certain unlawful act; amending  
16 63 O.S. 2011, Section 2-701, which relates to the  
17 methamphetamine offender registry; deleting certain  
18 exception; modifying references to certain monitoring  
19 programs; requiring stop-sale alerts under certain  
20 circumstances; modifying time limitation for  
21 submitting judgment and sentences; directing the  
22 Oklahoma State Bureau of Narcotics and Dangerous  
23 Drugs Control to transmit registry information to the  
24 electronic methamphetamine precursor tracking  
service; requiring transmission of certain data;  
providing for stop-sale alerts; directing Bureau to  
notify tracking service upon certain occurrences;  
providing for the removal of names from tracking  
service; providing for codification; and providing an  
effective date.

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

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

A. Beginning January 1, 2013, any pharmacy that dispenses,  
sells or distributes any compound mixture or preparation containing  
any detectable quantity of base pseudoephedrine or ephedrine, its

1 salts or optical isomers, or salts of optical isomers shall maintain  
2 an electronic record of the sale. The electronic record of the sale  
3 shall include the following information:

4 1. Name and address of the purchaser;

5 2. Date of birth of the purchaser;

6 3. Type of identification and number;

7 4. Date and time of the purchase;

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

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

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

19 B. By January 1, 2013, each pharmacy in this state shall have  
20 in place and operational all equipment necessary to access and use a  
21 real-time electronic methamphetamine precursor tracking service  
22 which is approved by the Oklahoma State Bureau of Narcotics and  
23 Dangerous Drugs Control. The electronic methamphetamine precursor  
24 tracking service shall be available free of charge to all law

1 enforcement agencies within the state for purposes of viewing and  
2 searching the database. Pharmacies shall be permitted to access  
3 only the information that is submitted by said pharmacy and such  
4 access shall be available free of charge. The electronic  
5 methamphetamine precursor tracking service shall be self-sustaining  
6 and shall not require the use of state or federal taxpayer dollars  
7 to operate. The tracking service shall operate and communicate in  
8 real-time throughout the state and across state lines with similar  
9 multistate systems. The tracking service shall be capable of  
10 tracking all required information and generating a stop-sale alert  
11 to notify a pharmacy that an attempted purchase by a person of  
12 pseudoephedrine or ephedrine exceeds the quantity limits set forth  
13 in Section 2-212 of Title 63 of the Oklahoma Statutes. The tracking  
14 service shall have the capability of stopping an illegal purchase in  
15 real-time and shall contain an override function that allows a  
16 pharmacy to complete a sale in violation of this section if the  
17 circumstances require that such sale be completed. The tracking  
18 service shall be in real time and track all override sales made by  
19 the pharmacy. The Bureau shall select a vendor that meets the  
20 requirements specified in this section by no later than October 1,  
21 2012.

22 C. Beginning January 1, 2013, before completing the sale of an  
23 over-the-counter product containing pseudoephedrine or ephedrine, a  
24 pharmacy shall electronically submit the required information to the

1 | electronic methamphetamine precursor tracking service. The pharmacy  
2 | shall not complete the sale of the product if the electronic  
3 | methamphetamine precursor tracking service generates a stop-sale  
4 | alert.

5 |       D. Absent negligence, wantonness, recklessness, or deliberate  
6 | misconduct, any pharmacy utilizing the electronic methamphetamine  
7 | precursor tracking service in accordance with this section shall not  
8 | be civilly liable as a result of any act or omission in carrying out  
9 | the duties required by this section. Such pharmacies shall also be  
10 | immune from liability to any third party unless the pharmacy has  
11 | violated a provision of this section in relation to a claim brought  
12 | for such violation. The provisions of this section shall not apply  
13 | to a person who obtains the product or products pursuant to a valid  
14 | prescription.

15 |       E. The information entered, stored and maintained by the  
16 | electronic methamphetamine precursor tracking service shall be  
17 | confidential and shall only be accessed by law enforcement  
18 | officials, health care professionals and licensed pharmacists for  
19 | the purpose of controlling the sale of methamphetamine precursors.

20 |       F. If a pharmacy selling an over-the-counter product containing  
21 | pseudoephedrine or ephedrine experiences mechanical or electronic  
22 | failure of the electronic tracking service and is unable to comply  
23 | with the provisions of this section, the pharmacy shall maintain a  
24 |

1 written log until such time as the pharmacy is able to comply with  
2 the electronic tracking service requirements.

3 G. A pharmacy selling an over-the-counter product containing  
4 pseudoephedrine or ephedrine may seek an exemption from submitting  
5 transactions to the electronic tracking service in writing to the  
6 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
7 stating the reasons for such exemption. The Bureau may grant an  
8 exemption for good cause, but in no event shall such exemption  
9 exceed one hundred eighty (180) days. Any pharmacy that receives an  
10 exemption shall maintain a hard-copy logbook and shall require the  
11 purchaser to provide the information required pursuant to subsection  
12 A of this section before completion of any sale. The logbook shall  
13 be maintained as a record of each sale for inspection by any law  
14 enforcement official during normal business hours.

15 H. All data that is collected from the pharmacies of this state  
16 and stored in the electronic methamphetamine precursor tracking  
17 service shall be downloaded and exported by electronic means to the  
18 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control at  
19 least every twenty-four (24) hours. The export of data shall be in  
20 a version that is in compliance with the standards agreed to by both  
21 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
22 and the provider of the electronic methamphetamine precursor  
23 tracking service. The export of data shall be executed by way of a  
24 memorandum of understanding and without charge to the Oklahoma State

1 Bureau of Narcotics and Dangerous Drugs Control. Any and all data  
2 exported to, obtained by, gathered by, transmitted to or stored by  
3 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
4 or its designee shall be the property of the state. The Oklahoma  
5 State Bureau of Narcotics and Dangerous Drugs Control shall have the  
6 authority to control, administer, and disseminate, at the discretion  
7 of the Bureau, the transaction data for the purpose of enforcing  
8 federal and state laws. In addition to exporting data to the  
9 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,  
10 real-time access to information contained in the electronic  
11 methamphetamine precursor tracking service through an online portal  
12 shall be provided to all law enforcement agencies within the state  
13 free of charge.

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

23 J. A person who violates any of the provisions of this section  
24 shall, upon conviction, be guilty of a misdemeanor punishable by a

1 fine of not more than One Thousand Dollars (\$1,000.00). If the  
2 person convicted is a licensed pharmacist or registered pharmacy  
3 technician, the violation shall be reported to the State Board of  
4 Pharmacy for review and appropriate action.

5 K. Any second or subsequent stop-sale alert that occurs when a  
6 person attempts to purchase a pseudoephedrine or ephedrine product  
7 or products shall permanently prohibit said person from further  
8 purchasing, receiving or otherwise acquiring any additional  
9 pseudoephedrine or ephedrine product or products. The person may  
10 make application to the Oklahoma State Bureau of Narcotics and  
11 Dangerous Drugs Control for removal from the stop-sale alert  
12 tracking program. The Bureau shall promulgate rules and procedures  
13 to implement the provisions of this subsection.

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

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

18 1. Any compound, mixture, or preparation containing limited  
19 quantities of any of the following narcotic drugs, which also  
20 contains one or more nonnarcotic active medicinal ingredients in  
21 sufficient proportion to confer upon the compound, mixture, or  
22 preparation, valuable medicinal qualities other than those possessed  
23 by the narcotic drug alone:

24

- 1 a. not more than two hundred (200) milligrams of codeine,  
2 or any of its salts, per one hundred (100) milliliters  
3 or per one hundred (100) grams,  
4 b. not more than one hundred (100) milligrams of  
5 dihydrocodeine, or any of its salts, per one hundred  
6 (100) milliliters or per one hundred (100) grams,  
7 c. not more than one hundred (100) milligrams of  
8 ethylmorphine, or any of its salts, per one hundred  
9 (100) milliliters or per one hundred (100) grams,  
10 d. not more than two and five-tenths (2.5) milligrams of  
11 diphenoxylate and not less than twenty-five (25)  
12 micrograms of atropine sulfate per dosage unit, or  
13 e. not more than one hundred (100) milligrams of opium  
14 per one hundred (100) milliliters or per one hundred  
15 (100) grams.

16 2. Any compound, mixture, or preparation containing any  
17 detectable quantity of base pseudoephedrine or ephedrine, its salts  
18 or optical isomers, or salts of optical isomers. If any compound,  
19 mixture, or preparation as specified in this paragraph is dispensed,  
20 sold, or distributed in a pharmacy:

- 21 a. it shall be dispensed, sold, or distributed only by,  
22 or under the supervision of, a licensed pharmacist or  
23 a registered pharmacy technician, ~~and~~  
24

1           b. a service charge not to exceed the purchase price of  
2           the product, mixture or preparation may be assessed  
3           and collected by the licensed pharmacist or registered  
4           pharmacy technician at the point of sale from the  
5           person seeking to purchase, receive or otherwise  
6           acquire a pseudoephedrine product or products. Upon  
7           receipt of payment of the service charge, the licensed  
8           pharmacist or registered pharmacy technician shall  
9           access the methamphetamine offender registry and  
10           verify whether the person is an individual who is  
11           listed on the methamphetamine offender registry. Upon  
12           verification that the person is an individual who is  
13           not listed on the methamphetamine offender registry,  
14           the service charge shall be deducted from the total  
15           purchase price of the pseudoephedrine product or  
16           products. Upon verification that the person is an  
17           individual who is listed on the methamphetamine  
18           offender registry, the person shall be prohibited from  
19           purchasing the pseudoephedrine product or products and  
20           shall be required to forfeit the service charge  
21           previously collected by the licensed pharmacist or  
22           registered pharmacy technician. Any pharmacy that  
23           requires the assessment and collection of a service  
24           charge for pseudoephedrine products shall post a clear

1           and conspicuous sign at each public entrance to the  
2           place of business and at each register within the  
3           pharmacy that provides notice to customers of the  
4           pharmacy that a service charge shall be assessed and  
5           collected for pseudoephedrine products and, upon  
6           verification that the person is listed on the  
7           methamphetamine offender registry, the service charge  
8           shall be forfeited and retained by the pharmacy, and  
9           c. any person who is not an individual listed on the  
10           methamphetamine offender registry that is purchasing,  
11           receiving, or otherwise acquiring any compound,  
12           mixture, or preparation shall produce a driver  
13           license, passport, military identification, or other  
14           state-issued identification card and shall sign a  
15           written or electronic log, receipt, or other program  
16           or mechanism approved by the Oklahoma Bureau of  
17           Narcotics and Dangerous Drugs Control, showing:  
18           (1) the date and time of the transaction,  
19           (2) name, address and date of birth of the purchaser,  
20           (3) driver license number, passport, military  
21           identification, or state-issued identification  
22           number and state of residence of the purchaser,  
23           (4) name and initials of the pharmacist or pharmacy  
24           technician conducting the transaction,

1 (5) the product being sold, and

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

4 No person shall purchase, receive, or otherwise acquire more  
5 than ~~nine (9)~~ three and four-tenths (3.4) grams of any product,  
6 mixture, or preparation per day or more than seven and one-tenth  
7 (7.1) grams of any product, mixture, or preparation within any  
8 thirty-day period or sixty (60) grams of any product, mixture, or  
9 preparation within a twelve-month period. Once a person has  
10 purchased, received or otherwise acquired the daily limit of three  
11 and four-tenths (3.4) grams of any product, mixture or preparation,  
12 the person shall be prohibited from purchasing, receiving or  
13 otherwise acquiring any additional product, mixture or preparation  
14 containing any detectable quantity of base pseudoephedrine or  
15 ephedrine for a period of not less than seventy-two (72) hours  
16 following the last permitted purchase. ~~Provided, the~~ The  
17 requirements of this ~~subsection~~ paragraph shall not apply to any  
18 quantity of such product, mixture or preparation dispensed pursuant  
19 to a valid prescription. There shall be no protocol or procedure  
20 mandated by any individual or corporate entity that interferes with  
21 the professional duty of a pharmacist to counsel and evaluate the  
22 appropriate pharmaceutical needs of a patient and the exercise of  
23 the professional judgment of a pharmacist as to whether it is  
24

1 appropriate to dispense medication as set forth in this paragraph or  
2 otherwise.

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

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

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

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

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

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

4       C. 1. Before dispensing a nonprescription product containing  
5 base pseudoephedrine or ephedrine, a licensed pharmacist shall make  
6 a professional determination, based on a pharmacist-patient  
7 relationship, as to whether or not there is a legitimate medical and  
8 pharmaceutical need for the drug.

9       2. The determination made pursuant to paragraph 1 of this  
10 subsection may be based on factors including without limitation:

- 11       a. prior medication-filling history, and
- 12       b. other tools that provide professional assurance to the  
13       licensed pharmacist that a legitimate medical and  
14       pharmaceutical need exists.

15       3. The State Board of Pharmacy may:

- 16       a. adopt rules regarding determinations made under  
17       paragraphs 1 and 2 of this subsection; provided,  
18       however, such rules adopted pursuant to this  
19       subsection shall not be more stringent than the  
20       dispensation requirements provided for in existing  
21       state law,
- 22       b. review determinations made under paragraphs 1 and 2 of  
23       this subsection, and
- 24       c. take appropriate disciplinary action as required.

1       4. A pharmacy or licensed pharmacist shall not be held civilly  
2 liable for a determination made for any refusal to dispense, sell,  
3 transfer, or otherwise furnish a product containing base  
4 pseudoephedrine or ephedrine based upon a determination of need, age  
5 or identity.

6       D. Unless pursuant to a valid prescription, it shall be  
7 unlawful for a licensed pharmacist or a registered pharmacy  
8 technician to knowingly dispense, sell, transfer, or otherwise  
9 furnish in a single transaction any product containing base  
10 pseudoephedrine or ephedrine to any person who fails to present  
11 valid identification as prescribed in paragraph 2 of subsection A of  
12 this section.

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

15       Section 2-309C. A. A dispenser of a Schedule II, III, IV or V  
16 controlled dangerous substance ~~including any compound mixture or~~  
17 ~~preparation containing any detectable quantity of pseudoephedrine,~~  
18 ~~its salts or optical isomers, or salts of optical isomers~~ when  
19 dispensed pursuant to a valid prescription shall transmit to a  
20 central repository designated by the Oklahoma State Bureau of  
21 Narcotics and Dangerous Drugs Control using the American Society for  
22 Automation in Pharmacy's (ASAP) Telecommunications Format for  
23 Controlled Substances version designated in rules by the Oklahoma  
24

1 State Bureau of Narcotics and Dangerous Drugs Control, the following  
2 information for each dispensation:

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

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

- 16 1. In a format or other media designated acceptable by the  
17 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; and
- 18 2. Within twenty-four (24) hours of the time that the substance  
19 is dispensed. Beginning January 1, 2012, all information shall be  
20 submitted on a real-time log.

21 C. When a prescription is written or dispensed to a resident of  
22 a nursing home or a person who is under the care of a hospice  
23 program licensed pursuant to the provisions of the Oklahoma Hospice  
24 Licensing Act who does not have an identification card issued by the

1 state or another form of a recipient identification number pursuant  
2 to Section 2-309B of this title, a Social Security number may be  
3 used for the purpose of complying with the reporting requirements  
4 provided for in this section.

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

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

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

24

1       ~~G. The Oklahoma State Bureau of Narcotics and Dangerous Drugs~~  
2 ~~Control is authorized, by any funds available to it, to implement a~~  
3 ~~real-time electronic logbook to monitor the sale of nonprescription~~  
4 ~~Schedule V products containing any detectable quantity of~~  
5 ~~pseudoephedrine, its salts or optical isomers, or salts of optical~~  
6 ~~isomers. Dispensers of such pseudoephedrine products shall report~~  
7 ~~all such sales electronically pursuant to rules promulgated by the~~  
8 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.~~

9       ~~H. The Oklahoma State Bureau of Narcotics and Dangerous Drugs~~  
10 ~~Control shall have the authority to adopt rules for the reporting of~~  
11 ~~sales of Schedule V product containing any detectable quantity of~~  
12 ~~pseudoephedrine, its salts or optical isomers, or salts of optical~~  
13 ~~isomers.~~

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

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

19       1. To distribute, dispense, transport with intent to distribute  
20 or dispense, possess with intent to manufacture, distribute, or  
21 dispense, a controlled dangerous substance or to solicit the use of  
22 or use the services of a person less than eighteen (18) years of age  
23 to cultivate, distribute or dispense a controlled dangerous  
24 substance;

1        2. To create, distribute, transport with intent to distribute  
2 or dispense, or possess with intent to distribute, a counterfeit  
3 controlled dangerous substance; or

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

8        B. Any person who violates the provisions of this section with  
9 respect to:

10        1. A substance classified in Schedule I or II which is a  
11 narcotic drug, lysergic acid diethylamide (LSD), gamma  
12 butyrolactone, gamma hydroxyvalerate, gamma valerolactone, 1,4  
13 butanediol, or gamma-hydroxybutyric acid as defined in Sections 2-  
14 204 and 2-208 of this title, upon conviction, shall be guilty of a  
15 felony and shall be sentenced to a term of imprisonment for not less  
16 than five (5) years nor more than life and a fine of not more than  
17 One Hundred Thousand Dollars (\$100,000.00), which shall be in  
18 addition to other punishment provided by law and shall not be  
19 imposed in lieu of other punishment. Any sentence to the custody of  
20 the Department of Corrections shall not be subject to statutory  
21 provisions for suspended sentences, deferred sentences, or probation  
22 except when the conviction is for a first offense;

23        2. Any other controlled dangerous substance classified in  
24 Schedule I, II, III, or IV, upon conviction, shall be guilty of a

1 felony and shall be sentenced to a term of imprisonment for not less  
2 than two (2) years nor more than life and a fine of not more than  
3 Twenty Thousand Dollars (\$20,000.00), which shall be in addition to  
4 other punishment provided by law and shall not be imposed in lieu of  
5 other punishment. Any sentence to the custody of the Department of  
6 Corrections shall not be subject to statutory provisions for  
7 suspended sentences, deferred sentences, or probation except when  
8 the conviction is for a first offense;

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

15 4. An imitation controlled substance as defined by Section 2-  
16 101 of this title, upon conviction, shall be guilty of a misdemeanor  
17 and shall be sentenced to a term of imprisonment in the county jail  
18 for a period of not more than one (1) year and a fine of not more  
19 than One Thousand Dollars (\$1,000.00). A person convicted of a  
20 second violation of the provisions of this paragraph shall be guilty  
21 of a felony and shall be sentenced to a term of imprisonment for not  
22 more than five (5) years and a fine of not more than Five Thousand  
23 Dollars (\$5,000.00), which shall be in addition to other punishment  
24

1 provided by law and shall not be imposed in lieu of other  
2 punishment.

3 C. 1. Except when authorized by the Food and Drug  
4 Administration of the United States Department of Health and Human  
5 Services, it shall be unlawful for any person to manufacture,  
6 cultivate, distribute, or possess with intent to distribute a  
7 synthetic controlled substance.

8 2. Any person convicted of violating the provisions of this  
9 paragraph is guilty of a felony and shall be punished by  
10 imprisonment in the State Penitentiary for a term not to exceed life  
11 and a fine of not more than Twenty-five Thousand Dollars  
12 (\$25,000.00), which shall be in addition to other punishment  
13 provided by law and shall not be imposed in lieu of other  
14 punishment.

15 3. A second or subsequent conviction for the violation of the  
16 provisions of this paragraph is a felony punishable as a habitual  
17 offender pursuant to Section 51.1 of Title 21 of the Oklahoma  
18 Statutes.

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

23 D. 1. Any person convicted of a second or subsequent felony  
24 violation of the provisions of this section, except for paragraph 4

1 of subsection B of this section, shall be punished as a habitual  
2 offender pursuant to Section 51.1 of Title 21 of the Oklahoma  
3 Statutes.

4 2. In addition the violator shall be fined twice the fine  
5 otherwise authorized, which shall be in addition to other punishment  
6 provided by law and shall not be imposed in lieu of other  
7 punishment.

8 3. Convictions for second or subsequent violations of the  
9 provisions of this section shall not be subject to statutory  
10 provisions for suspended sentences, deferred sentences, or  
11 probation.

12 E. Any person who is at least eighteen (18) years of age and  
13 who violates the provisions of this section by using or soliciting  
14 the use of services of a person less than eighteen (18) years of age  
15 to distribute, dispense, transport with intent to distribute or  
16 dispense or cultivate a controlled dangerous substance or by  
17 distributing a controlled dangerous substance to a person under  
18 eighteen (18) years of age is punishable by twice the fine and by  
19 twice the imprisonment otherwise authorized.

20 F. Any person who violates any provision of this section by  
21 transporting with intent to distribute or dispense, distributing or  
22 possessing with intent to distribute a controlled dangerous  
23 substance to a person, or violation of subsection G of this section,  
24 in or on, or within two thousand (2,000) feet of the real property

1 comprising a public or private elementary or secondary school,  
2 public vocational school, public or private college or university,  
3 or other institution of higher education, recreation center or  
4 public park, including state parks and recreation areas, public  
5 housing project, or child care facility as defined by Section 402 of  
6 Title 10 of the Oklahoma Statutes shall be punished by:

7 1. For a first offense, a term of imprisonment, or by the  
8 imposition of a fine or by both, not exceeding twice that authorized  
9 by the appropriate provision of this section and shall serve a  
10 minimum of fifty percent (50%) of the sentence received prior to  
11 becoming eligible for state correctional institution earned credits  
12 toward the completion of said sentence; or

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

19 G. 1. Except as authorized by the Uniform Controlled Dangerous  
20 Substances Act, it shall be unlawful for any person to manufacture  
21 or attempt to manufacture any controlled dangerous substance or  
22 possess any substance listed in Section 2-322 of this title or any  
23 substance containing any detectable amount of pseudoephedrine or its  
24 salts, optical isomers or salts of optical isomers, iodine or its

1 salts, optical isomers or salts of optical isomers, hydriodic acid,  
2 sodium metal, lithium metal, anhydrous ammonia, phosphorus, or  
3 organic solvents with the intent to use that substance to  
4 manufacture a controlled dangerous substance.

5 2. Any person violating the provisions of this subsection with  
6 respect to the unlawful manufacturing or attempting to unlawfully  
7 manufacture any controlled dangerous substance, or possessing any  
8 substance listed in this subsection or Section 2-322 of this title,  
9 upon conviction, is guilty of a felony and shall be punished by  
10 imprisonment in the State Penitentiary for not less than seven (7)  
11 years nor more than life and by a fine of not less than Fifty  
12 Thousand Dollars (\$50,000.00), which shall be in addition to other  
13 punishment provided by law and shall not be imposed in lieu of other  
14 punishment. The possession of any amount of anhydrous ammonia in an  
15 unauthorized container shall be prima facie evidence of intent to  
16 use such substance to manufacture a controlled dangerous substance.

17 3. Any person violating the provisions of this subsection with  
18 respect to the unlawful manufacturing or attempting to unlawfully  
19 manufacture any controlled dangerous substance in the following  
20 amounts:

- 21 a. one (1) kilogram or more of a mixture or substance  
22 containing a detectable amount of heroin,
- 23 b. five (5) kilograms or more of a mixture or substance  
24 containing a detectable amount of:

1 (1) coca leaves, except coca leaves and extracts of  
2 coca leaves from which cocaine, ecgonine, and  
3 derivatives of ecgonine or their salts have been  
4 removed,

5 (2) cocaine, its salts, optical and geometric  
6 isomers, and salts of isomers,

7 (3) ecgonine, its derivatives, their salts, isomers,  
8 and salts of isomers, or

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

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

16 d. one hundred (100) grams or more of phencyclidine (PCP)  
17 or 1 kilogram or more of a mixture or substance  
18 containing a detectable amount of phencyclidine (PCP),

19 e. ten (10) grams or more of a mixture or substance  
20 containing a detectable amount of lysergic acid  
21 diethylamide (LSD),

22 f. four hundred (400) grams or more of a mixture or  
23 substance containing a detectable amount of N-phenyl-  
24 N-[1-(2-pheylethy)-4-piperidinyl] propanamide or 100

1 grams or more of a mixture or substance containing a  
2 detectable amount of any analogue of N-phenyl-N-[1-(2-  
3 phenylethyl)-4-piperidiny] propanamide,

4 g. one thousand (1,000) kilograms or more of a mixture or  
5 substance containing a detectable amount of marihuana  
6 or one thousand (1000) or more marihuana plants  
7 regardless of weight, or

8 h. fifty (50) grams or more of methamphetamine, its  
9 salts, isomers, and salts of its isomers or 500 grams  
10 or more of a mixture or substance containing a  
11 detectable amount of methamphetamine, its salts,  
12 isomers, or salts of its isomers,

13 upon conviction, is guilty of aggravated manufacturing a controlled  
14 dangerous substance punishable by imprisonment in the State  
15 Penitentiary for not less than twenty (20) years nor more than life  
16 and by a fine of not less than Fifty Thousand Dollars (\$50,000.00),  
17 which shall be in addition to other punishment provided by law and  
18 shall not be imposed in lieu of other punishment. Any person  
19 convicted of a violation of the provisions of this paragraph shall  
20 be required to serve a minimum of eighty-five percent (85%) of the  
21 sentence received prior to becoming eligible for state correctional  
22 earned credits towards the completion of the sentence or eligible  
23 for parole.

1           4. Any sentence to the custody of the Department of Corrections  
2 for any violation of paragraph 3 of this subsection shall not be  
3 subject to statutory provisions for suspended sentences, deferred  
4 sentences, or probation. A person convicted of a second or  
5 subsequent violation of the provisions of paragraph 3 of this  
6 subsection shall be punished as a habitual offender pursuant to  
7 Section 51.1 of Title 21 of the Oklahoma Statutes and shall be  
8 required to serve a minimum of eighty-five percent (85%) of the  
9 sentence received prior to becoming eligible for state correctional  
10 earned credits or eligibility for parole.

11           5. Any person who has been convicted of manufacturing or  
12 attempting to manufacture methamphetamine pursuant to the provisions  
13 of this subsection and who, after such conviction, purchases or  
14 attempts to purchase, receive or otherwise acquire any product,  
15 mixture, or preparation containing any detectable quantity of base  
16 pseudoephedrine or ephedrine shall, upon conviction, be guilty of a  
17 felony punishable by imprisonment in the custody of the Department  
18 of Corrections for a term in the range of twice the minimum term  
19 provided for in paragraph 2 of this subsection.

20           H. Any person convicted of any offense described in the Uniform  
21 Controlled Dangerous Substances Act may, in addition to the fine  
22 imposed, be assessed an amount not to exceed ten percent (10%) of  
23 the fine imposed. Such assessment shall be paid into a revolving  
24

1 fund for enforcement of controlled dangerous substances created  
2 pursuant to Section 2-506 of this title.

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

8 J. For purposes of this section, "public housing project" means  
9 any dwelling or accommodations operated as a state or federally  
10 subsidized multifamily housing project by any housing authority,  
11 nonprofit corporation or municipal developer or housing projects  
12 created pursuant to the Oklahoma Housing Authorities Act.

13 K. When a person is found guilty of a violation of the  
14 provisions of this section, the court shall order, in addition to  
15 any other penalty, the defendant to pay a one-hundred-dollar  
16 assessment to be deposited in the Drug Abuse Education and Treatment  
17 Revolving Fund created in Section 2-503.2 of this title, upon  
18 collection.

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

21 Section 2-701. A. There is hereby created within the Oklahoma  
22 State Bureau of Narcotics and Dangerous Drugs Control a registry of  
23 persons who, after November 1, 2010, have been convicted, whether  
24 upon a verdict or plea of guilty or upon a verdict or plea of nolo

1 | contendere, or received a suspended sentence or any deferred or  
2 | probationary term, or are currently serving a sentence or any form  
3 | of probation or parole for a crime or attempt to commit a crime  
4 | including, but not limited to, unlawful possession, conspiring,  
5 | endeavoring, manufacturing, distribution or trafficking of a  
6 | precursor or methamphetamines under the provisions of Section 2-322,  
7 | 2-332, 2-401, 2-402, 2-408 or 2-415 of this title, or any crime  
8 | including, but not limited to, crimes involving the possession,  
9 | distribution, manufacturing or trafficking of methamphetamines or  
10 | illegal amounts of or uses of pseudoephedrine in any federal court,  
11 | Indian tribal court, or any court of another state if the person is  
12 | a resident of the State of Oklahoma or seeks to remain in the State  
13 | of Oklahoma in excess of ten (10) days.

14 |       B. It shall be unlawful for any person subject to the registry  
15 | created in subsection A of this section to purchase, possess or have  
16 | control of any Schedule V compound, mixture, or preparation  
17 | containing any detectable quantity of pseudoephedrine, its salts or  
18 | optical isomers, or salts of optical isomers. ~~As provided in~~  
19 | ~~Section 2-212 of this title, the provisions of this subsection shall~~  
20 | ~~not apply to any compounds, mixtures, or preparations which are in~~  
21 | ~~liquid, liquid capsule, or gel capsule form if pseudoephedrine is~~  
22 | ~~not the only active ingredient.~~ A prescription for pseudoephedrine  
23 | shall not provide an exemption for any person to this law. Any  
24 | person convicted of violating the provisions of this subsection

1 shall be guilty of a felony, punishable by imprisonment in the  
2 custody of the Department of Corrections for not less than two (2)  
3 years and not more than ten (10) years, or by a fine of not more  
4 than Five Thousand Dollars (\$5,000.00), or by both such fine and  
5 imprisonment.

6 C. The registry created in subsection A of this section shall  
7 be maintained by the Bureau. The registry shall be made available  
8 for registrants who sell or dispense pseudoephedrine-related  
9 products and to law enforcement agencies for law enforcement  
10 purposes through the ~~Central Repository and the prescription~~  
11 ~~monitoring program~~ electronic methamphetamine precursor tracking  
12 service. ~~Every registrant selling, dispensing or otherwise~~  
13 ~~delivering pseudoephedrine products~~ The electronic methamphetamine  
14 precursor tracking service shall ~~deny~~ generate a stop-sale alert on  
15 any sale of pseudoephedrine to any individual listed on the  
16 methamphetamine offender registry in real time.

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

18 1. Name and address of the person;

19 2. Date of birth of the person;

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

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

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

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

4 E. Beginning November 1, 2010, all district court clerks shall  
5 forward a copy of the judgment and sentence or other applicable  
6 information relating to the disposition of the criminal case and  
7 date of birth of all persons who are subject to the provisions of  
8 this act for a violation of the offenses described in subsection A  
9 of this section to the Bureau. The information shall be sent in an  
10 electronic format in a manner prescribed by the Bureau within ~~thirty~~  
11 ~~(30)~~ ten (10) days of the date of final disposition of the case.

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

21 F. Upon receipt of the information provided by the district  
22 court clerk, the Bureau shall transmit in an electronic format to  
23 the electronic methamphetamine precursor tracking service at least  
24 every seven (7) days the name of any person placed on the

1 methamphetamine offender registry as provided in this section. The  
2 information transmitted to the electronic tracking service shall  
3 include the first, middle, and last name of the person, and address  
4 and the date of birth of the person. The electronic methamphetamine  
5 precursor tracking service shall be designed to generate a stop-sale  
6 alert for any person who is on the methamphetamine offender registry  
7 and whose name, address and date of birth have been transmitted by  
8 the Bureau to the electronic tracking service.

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

1 precursor tracking service and the person shall thereafter be  
2 permitted to purchase pseudoephedrine-related products.

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

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

