

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 53rd Legislature (2011)

4   HOUSE BILL 1798

                                  By: Tibbs

7                                   AS INTRODUCED

8           An Act relating to public health and safety; amending  
9           63 O.S. 2001, Section 2-509, which relates to the  
10          Uniform Controlled Dangerous Substances Act; making  
            certain acts unlawful; and providing an effective  
            date.

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

14           SECTION 1.        AMENDATORY        63 O.S. 2001, Section 2-509, is  
15   amended to read as follows:

16           Section 2-509.  A.  All species of plants from which controlled  
17   dangerous substances in Schedules I and II may be derived are hereby  
18   declared inimical to health and welfare of the public, and the  
19   intent of the Legislature is to control and eradicate these species  
20   of the plants in the State of Oklahoma.

21           B.  It shall be unlawful for any person to cultivate or produce,  
22   or to knowingly permit the cultivation, production, or wild growing  
23   of any species of such plants, on any lands owned or controlled by

1 such person, and it is hereby declared the duty of every such person  
2 to destroy all such plants found growing on lands owned or  
3 controlled by him.

4 C. 1. Whenever any peace officer of the state shall receive  
5 information that any species of any such plants has been found  
6 growing on any private lands in the State of Oklahoma, he shall  
7 notify the sheriff and county commissioners of the county wherein  
8 such plants are found growing. Within five (5) days of receipt of  
9 such notice, the county commissioners shall notify the owner or  
10 person in possession of such lands that such plants have been found  
11 growing on the said lands and that the same must be destroyed or  
12 eradicated within fifteen (15) days. When the fifteen (15) days  
13 have elapsed, the reporting peace officer shall cause an  
14 investigation to be made of the aforesaid lands, and if any such  
15 plants be found growing thereon, the commissioners shall cause the  
16 same to be destroyed or eradicated by either cutting and burning or  
17 by applications of herbicides approved for such purpose by the  
18 Department of Agriculture in accordance with Section 2-505 of this  
19 title.

20 2. Whenever any such plants are destroyed or eradicated by  
21 order of the commissioners as provided herein, the cost of the same  
22 shall, if the work or labor be furnished by the commissioners, be  
23 taxed against the lands whereon the work was performed, and shall be  
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1 a lien upon such land in all manner and respects as a lien of  
2 judgment, if the owner is charged with a violation of subsection B  
3 of this section. If the violation of subsection B of this section  
4 is by a person other than the owner of the land, without the  
5 knowledge of the owner, the costs shall be paid by the initiating  
6 law enforcement agency.

7 D. Knowingly violating the provisions of subsection B or  
8 subsection H of this section is hereby declared, as to the owner, or  
9 person in possession of such lands, to be a felony and punishable as  
10 such by a fine not to exceed Fifty Thousand Dollars (\$50,000.00) and  
11 imprisonment in the ~~State Penitentiary~~ custody of the Department of  
12 Corrections for not less than two (2) years nor more than life. The  
13 fine provided for in this subsection shall be in addition to other  
14 punishments provided by law and shall not be in lieu of other  
15 punishment. Any person convicted of a second or subsequent  
16 violation of subsection B or subsection H of this section is  
17 punishable by a term of imprisonment twice that otherwise authorized  
18 and by twice the fine otherwise authorized. Any sentence shall not  
19 be subject to statutory provisions for suspended sentences, deferred  
20 sentences, or probation, except when the conviction is for a first  
21 offense.

22 E. It shall be the duty of any peace officer of the State of  
23 Oklahoma who receives information of such plants growing in the  
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1 State of Oklahoma, to make notice, in writing, to the Oklahoma State  
2 Bureau of Narcotics and Dangerous Drugs Control and the future  
3 destruction or eradication of the annual growth of such plants shall  
4 be supervised by the Oklahoma State Bureau of Narcotics and  
5 Dangerous Drugs Control. Any destruction or eradication of the  
6 annual growth of such plants supervised by the Bureau shall be by  
7 cutting and burning the same or by destruction and eradication  
8 through applications of herbicides approved for such purpose by the  
9 Department of Agriculture.

10 F. Any application of herbicides authorized by this section  
11 shall be made pursuant to the provisions of Section 2-505 of this  
12 title.

13 G. In lieu of the eradication procedures provided for in  
14 subsections B and C of this section, all species of plants from  
15 which controlled dangerous substances in Schedules I and II of the  
16 Uniform Controlled Dangerous Substances Act may be derived, may be  
17 disposed of pursuant to the provisions of subsection C of Section 2-  
18 505 of this title.

19 H. 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 by  
22 cooking, burning, or extracting and converting or attempting to  
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1 extract and convert marihuana or marihuana oil into hashish, hashish  
2 oil or hashish powder.

3 SECTION 2. This act shall become effective November 1, 2011.

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-15-2011 - DO  
5 PASS.

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UNDERLINED language denotes Amendments to present Statutes.  
BOLD FACE CAPITALIZED language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.