

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2375

By: Tibbs

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 63 O.S. 2011, Sections 2-208 and 2-212, which relate
9 to the Uniform Controlled Dangerous Substances Act;
10 adding products containing pseudoephedrine to
11 Schedule III; deleting pseudoephedrine products from
12 Schedule V; deleting procedures for the sale of
13 products containing pseudoephedrine; amending 63 O.S.
14 2011, Sections 2-309C and 2-309D, which relate to the
15 Anti-Drug Diversion Act; deleting reporting and
16 monitoring requirements for dispensers and
17 registrants who dispense certain products; and
18 providing an effective date.

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

20 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-208, is
21 amended to read as follows:

22 Section 2-208. The controlled substances listed in this section
23 are included in Schedule III.

24 A. Unless listed in another schedule, any material, compound,
mixture, or preparation, which contains any quantity of the
following substances or any other substance having a potential for

1 abuse associated with a stimulant or depressant effect on the
2 central nervous system:

- 3 1. Any substance which contains any quantity of a derivative of
4 barbituric acid, or any salt of a derivative of barbituric acid
5 unless specifically excepted or unless listed in another schedule;
- 6 2. Chlorhexadol;
- 7 3. Glutethimide;
- 8 4. Lysergic acid;
- 9 5. Lysergic acid amide;
- 10 6. Methyprylon;
- 11 7. Sulfondiethylmethane;
- 12 8. Sulfonethylmethane;
- 13 9. Sulfonmethane;
- 14 10. Benzephetamine and its salts;
- 15 11. Chlorphentermine and its salts;
- 16 12. Clortermine;
- 17 13. Mazindol;
- 18 14. Phendimetrazine;
- 19 15. Phenylacetone (P2P);
- 20 16. 1-Phenycyclohexylamine;
- 21 17. 1-Piperidinocyclohexanecarbo nitrile (PCC);
- 22 18. Ketamine, its salts, isomers, and salts of isomers;
- 23 19. Any material, compound, mixture, or preparation which
24 contains any quantity of the following hormonal substances or

1 steroids, including their salts, isomers, esters and salts of
2 isomers and esters, when the existence of these salts, isomers,
3 esters, and salts of isomers and esters is possible within the
4 specific chemical designation:

- 5 a. Boldenone,
- 6 b. Chlorotestosterone,
- 7 c. Clostebol,
- 8 d. Dehydrochlormethyltestosterone,
- 9 e. Dihydrotestosterone,
- 10 f. Drostanolone,
- 11 g. Ethylestrenol,
- 12 h. Fluoxymesterone,
- 13 i. Formebolone,
- 14 j. Mesterolone,
- 15 k. Methandienone,
- 16 l. Methandranone,
- 17 m. Methandriol,
- 18 n. Methandrostenolone,
- 19 o. Methenolone,
- 20 p. Methyltestosterone, except as provided in subsection E
21 of this section,
- 22 q. Mibolerone,
- 23 r. Nandrolone,
- 24 s. Norethandrolone,

- 1 t. Oxandrolone,
- 2 u. Oxymesterone,
- 3 v. Oxymetholone,
- 4 w. Stanolone,
- 5 x. Stanozolol,
- 6 y. Testolactone,
- 7 z. Testosterone, except as provided in subsection E of
- 8 this section, and
- 9 aa. Trenbolone;

10 20. Tetrahydrocannabinols;

11 21. Any drug product containing gamma-hydroxybutyric acid,
12 including its salts, isomers, and salts of isomers, for which an
13 application has been approved under Section 505 of the Federal Food,
14 Drug, and Cosmetic Act;

15 22. Buprenorphine; ~~or~~

16 23. Hydrocodone with another active ingredient; or

17 24. Any compound, mixture, or preparation, including any
18 preparation that is in liquid, liquid capsule, or gel capsule form,
19 containing any detectable quantity of pseudoephedrine, its salts or
20 optical isomers, or salts of optical isomers.

21 Livestock implants as regulated by the Federal Food and Drug
22 Administration shall be exempt.

23 B. Nalorphine.

1 C. Unless listed in another schedule, any material, compound,
2 mixture, or preparation containing limited quantities of any of the
3 following narcotic drugs, or any salts thereof:

4 1. Not more than one and eight-tenths (1.8) grams of codeine or
5 any of its salts, per one hundred (100) milliliters or not more than
6 ninety (90) milligrams per dosage unit, with an equal or greater
7 quantity of an isoquinoline alkaloid of opium;

8 2. Not more than one and eight-tenths (1.8) grams of codeine or
9 any of its salts, per one hundred (100) milliliters or not more than
10 ninety (90) milligrams per dosage unit, with one or more active,
11 nonnarcotic ingredients in recognized therapeutic amounts;

12 3. Not more than one and eight-tenths (1.8) grams of
13 dihydrocodeine or any of its salts, per one hundred (100)
14 milliliters or not more than ninety (90) milligrams per dosage unit,
15 with one or more active, nonnarcotic ingredients in recognized
16 therapeutic amounts;

17 4. Not more than three hundred (300) milligrams of
18 ethylmorphine or any of its salts, per one hundred (100) milliliters
19 or not more than fifteen (15) milligrams per dosage unit, with one
20 or more ingredients in recognized therapeutic amounts;

21 5. Not more than five hundred (500) milligrams of opium per one
22 hundred (100) milliliters or per one hundred (100) grams, or not
23 more than twenty-five (25) milligrams per dosage unit, with one or
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1 more active, nonnarcotic ingredients in recognized therapeutic
2 amounts; or

3 6. Not more than fifty (50) milligrams of morphine or any of
4 its salts, per one hundred (100) milliliters or per one hundred
5 (100) grams with one or more active, nonnarcotic ingredients in
6 recognized therapeutic amounts.

7 D. The Board of Pharmacy may except by rule any compound,
8 mixture, or preparation containing any stimulant or depressant
9 substance listed in subsections A and B of this section from the
10 application of all or any part of the Uniform Controlled Dangerous
11 Substances Act if the compound, mixture, or preparation contains one
12 or more active medicinal ingredients not having a stimulant or
13 depressant effect on the central nervous system, and if the
14 admixtures are included therein in combinations, quantity,
15 proportion, or concentration that vitiate the potential for abuse of
16 the substances which have a stimulant or depressant effect on the
17 central nervous system.

18 E. The following hormonal substances or steroids are exempt
19 from classification as Schedule III controlled dangerous substances:

20 1. Estratest, containing 1.25 mg esterified estrogens and 2.5
21 mg methyltestosterone;

22 2. Estratest HS, containing 0.625 mg esterified estrogens and
23 1.25 mg methyltestosterone;

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1 3. Premarin with Methyltestosterone, containing 1.25 mg
2 conjugated estrogens and 10.0 mg methyltestosterone;

3 4. Premarin with Methyltestosterone, containing 0.625 mg
4 conjugated estrogens and 5.0 mg methyltestosterone;

5 5. Testosterone Cypionate - Estradiol Cypionate injection,
6 containing 50 mg/ml Testosterone Cypionate; and

7 6. Testosterone Enanthate - Estradiol Valerate injection,
8 containing 90 mg/ml Testosterone Enanthate and 4 mg/ml Estradiol
9 Valerate.

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

12 Section 2-212. A. The controlled substances listed in this
13 section are included in Schedule ~~V~~:

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

20 a. not more than two hundred (200) milligrams of codeine,
21 or any of its salts, per one hundred (100) milliliters
22 or per one hundred (100) grams,

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

13 2. ~~Any compound, mixture, or preparation containing any~~
14 ~~detectable quantity of pseudoephedrine, its salts or optical~~
15 ~~isomers, or salts of optical isomers. If any compound, mixture, or~~
16 ~~preparation as specified in this paragraph is dispensed, sold, or~~
17 ~~distributed in a pharmacy:~~

- 18 a. ~~it shall be dispensed, sold, or distributed only by,~~
19 ~~or under the supervision of, a licensed pharmacist or~~
20 ~~a registered pharmacy technician, and~~
21 b. ~~any person purchasing, receiving, or otherwise~~
22 ~~acquiring any compound, mixture, or preparation shall~~
23 ~~produce a driver license, passport, military~~
24 ~~identification, or other state-issued identification~~

1 ~~card and shall sign a written log, receipt, or other~~
2 ~~program or mechanism approved by the Oklahoma Bureau~~
3 ~~of Narcotics and Dangerous Drugs Control, showing:~~
4 ~~(1) the date of the transaction,~~
5 ~~(2) name of the purchaser,~~
6 ~~(3) driver license number, passport, military~~
7 ~~identification, or state-issued identification~~
8 ~~number and state of residence of the purchaser,~~
9 ~~(4) name and initials of the pharmacist or pharmacy~~
10 ~~technician conducting the transaction,~~
11 ~~(5) the product being sold, and~~
12 ~~(6) total quantity, in grams or milligrams, of~~
13 ~~pseudoephedrine purchased.~~

14 ~~No person shall purchase, receive, or otherwise acquire more~~
15 ~~than nine (9) grams of any product, mixture, or preparation within~~
16 ~~any thirty-day period. Provided, the requirements of this~~
17 ~~subsection shall not apply to any quantity of such product, mixture~~
18 ~~or preparation dispensed pursuant to a valid prescription.~~

19 ~~3.~~ Any compound, mixture, or preparation containing any
20 detectable quantity of pregabalin.

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

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

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

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

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

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

22 Section 2-309C. A. A dispenser of a Schedule II, III, IV or V
23 controlled dangerous substance including any compound mixture or
24 preparation containing any detectable quantity of pseudoephedrine,

1 its salts or optical isomers, or salts of optical isomers when
2 dispensed pursuant to a valid prescription shall transmit to a
3 central repository designated by the Oklahoma State Bureau of
4 Narcotics and Dangerous Drugs Control using the American Society for
5 Automation in Pharmacy's (ASAP) Telecommunications Format for
6 Controlled Substances version designated in rules by the Oklahoma
7 State Bureau of Narcotics and Dangerous Drugs Control, the following
8 information for each dispensation:

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

20 B. The information required by this section shall be
21 transmitted:

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

4 C. When a prescription is written or dispensed to a resident of
5 a nursing home or a person who is under the care of a hospice
6 program licensed pursuant to the provisions of the Oklahoma Hospice
7 Licensing Act who does not have an identification card issued by the
8 state or another form of a recipient identification number pursuant
9 to Section 2-309B of this title, a Social Security number may be
10 used for the purpose of complying with the reporting requirements
11 provided for in this section.

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

21 E. Willful failure to transmit accurate information as required
22 by this section shall be a misdemeanor punishable, upon conviction,
23 by not more than one (1) year in the county jail, or by a fine of
24 not more than One Thousand Dollars (\$1,000.00), or by both such

1 imprisonment and fine, or administrative action may be taken
2 pursuant to Section 2-304 of this title.

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

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

15 ~~H. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
16 Control shall have the authority to adopt rules for the reporting of
17 sales of Schedule V product containing any detectable quantity of
18 pseudoephedrine, its salts or optical isomers, or salts of optical
19 isomers.~~

20 SECTION 4. AMENDATORY 63 O.S. 2011, Section 2-309D, is
21 amended to read as follows:

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

3 1. Peace officers certified pursuant to Section 3311 of Title
4 70 of the Oklahoma Statutes who are employed as investigative agents
5 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
6 Control;

7 2. The United States Drug Enforcement Administration Diversion
8 Group Supervisor;

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

11 a. Board of Podiatric Medical Examiners,

12 b. Board of Dentistry,

13 c. State Board of Pharmacy,

14 d. State Board of Medical Licensure and Supervision,

15 e. State Board of Osteopathic Examiners,

16 f. State Board of Veterinary Medical Examiners, and

17 g. Oklahoma Health Care Authority;

18 provided, however, that the executive director or chief investigator
19 of each of these boards shall be limited to access to information
20 relevant to licensees of the employing board of such executive
21 director or chief investigator; and

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

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

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

15 D. Notwithstanding the provisions of subsection B, registrants
16 shall have no requirement or obligation to access or check the
17 information in the central repository prior to dispensing or
18 administering medications or as part of their professional
19 practices. Registrants shall not be liable to any person for any
20 claim of damages as a result of accessing or failing to access the
21 information in the central repository and no lawsuit may be
22 predicated thereon. ~~Nothing herein shall be construed to relieve a~~
23 ~~registrant from any duty to monitor and report the sales of certain~~
24 ~~products pursuant to subsection E of Section 2-309C of this title.~~

1 E. Information regarding nonfatal overdoses, other than
2 statistical information as required by Section 2-106 of this title,
3 shall be completely confidential. Access to this information shall
4 be strictly limited to the Director of the Oklahoma State Bureau of
5 Narcotics and Dangerous Drugs Control or designee, the Chief Medical
6 Examiner, and the registrant that enters the information.
7 Registrants shall not be liable to any person for a claim of damages
8 for information reported pursuant to the provisions of Section 2-105
9 of this title.

10 SECTION 5. This act shall become effective November 1, 2012.

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