

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2217

By: Derby

7  
8                                   COMMITTEE SUBSTITUTE

9                   An Act relating to public health and safety; amending  
10                   63 O.S. 2011, Sections 2-204, as amended by Section  
11                   2, Chapter 80, O.S.L. 2012, 2-206, 2-210, as amended  
12                   by Section 4, Chapter 80, O.S.L. 2012, 2-212, as  
13                   amended by Section 2, Chapter 206, O.S.L. 2012, 2-  
14                   309D, as amended by Section 1, Chapter 51, O.S.L.  
15                   2012, and 2-332 (63 O.S. Supp. 2012, Sections 2-204,  
16                   2-210, 2-212 and 2-309D), which relate to the Uniform  
17                   Controlled Dangerous Substances Act; adding certain  
18                   substances to Schedules I and II; deleting certain  
19                   substance from Schedule IV; modifying guidelines used  
20                   for dispensing certain product; clarifying  
21                   confidentiality requirements of investigative  
22                   information; decreasing gram amount when possessing  
23                   certain substance; amending 63 O.S. 2011, Section 2-  
24                   701, as amended by Section 5, Chapter 206, O.S.L.  
2012 (63 O.S. Supp. 2012, Section 2-701), which  
relates to the Oklahoma Methamphetamine Offender  
Registry Act; clarifying elements of prohibited acts;  
directing the Oklahoma State Bureau of Narcotics and  
Dangerous Drugs Control to promulgate certain rules;  
and providing an effective date.

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

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

1 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-204, as  
2 amended by Section 2, Chapter 80, O.S.L. 2012 (63 O.S. Supp. 2012,  
3 Section 2-204), is amended to read as follows:

4 Section 2-204. The controlled substances listed in this section  
5 are included in Schedule I.

6 A. Any of the following opiates, including their isomers,  
7 esters, ethers, salts, and salts of isomers, esters, and ethers,  
8 unless specifically excepted, when the existence of these isomers,  
9 esters, ethers, and salts is possible within the specific chemical  
10 designation:

- 11 1. Acetylmethadol;
- 12 2. Allylprodine;
- 13 3. Alphacetylmethadol;
- 14 4. Alphameprodine;
- 15 5. Alphamethadol;
- 16 6. Benzethidine;
- 17 7. Betacetylmethadol;
- 18 8. Betameprodine;
- 19 9. Betamethadol;
- 20 10. Betaprodine;
- 21 11. Clonitazene;
- 22 12. Dextromoramide;
- 23 13. Dextrorphan (except its methyl ether);

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- 1 14. Diampromide;
- 2 15. Diethylthiambutene;
- 3 16. Dimenoxadol;
- 4 17. Dimepheptanol;
- 5 18. Dimethylthiambutene;
- 6 19. Dioxaphetyl butyrate;
- 7 20. Dipipanone;
- 8 21. Ethylmethylthiambutene;
- 9 22. Etonitazene;
- 10 23. Etoxeridine;
- 11 24. Furethidine;
- 12 25. Hydroxypethidine;
- 13 26. Ketobemidone;
- 14 27. Levomoramide;
- 15 28. Levophenacylmorphan;
- 16 29. Morpheridine;
- 17 30. Noracymethadol;
- 18 31. Norlevorphanol;
- 19 32. Normethadone;
- 20 33. Norpipanone;
- 21 34. Phenadoxone;
- 22 35. Phenampromide;
- 23 36. Phenomorphan;

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- 1 37. Phenoperidine;
- 2 38. Piritramide;
- 3 39. Proheptazine;
- 4 40. Properidine;
- 5 41. Racemoramide; or
- 6 42. Trimeperidine.

7 B. Any of the following opium derivatives, their salts,  
8 isomers, and salts of isomers, unless specifically excepted, when  
9 the existence of these salts, isomers, and salts of isomers is  
10 possible within the specific chemical designation:

- 11 1. Acetorphine;
- 12 2. Acetyldihydrocodeine;
- 13 3. Benzylmorphine;
- 14 4. Codeine methylbromide;
- 15 5. Codeine-N-Oxide;
- 16 6. Cyprenorphine;
- 17 7. Desomorphine;
- 18 8. Dihydromorphine;
- 19 9. Etorphine;
- 20 10. Heroin;
- 21 11. Hydromorphinol;
- 22 12. Methyldesorphine;
- 23 13. Methylhydromorphine;

- 1 14. Morphine methylbromide;
- 2 15. Morphine methylsulfonate;
- 3 16. Morphine-N-Oxide;
- 4 17. Myrophine;
- 5 18. Nicocodeine;
- 6 19. Nicomorphine;
- 7 20. Normorphine;
- 8 21. Phoclodine; or
- 9 22. Thebacon.

10 C. Any material, compound, mixture, or preparation which  
11 contains any quantity of the following hallucinogenic substances,  
12 their salts, isomers, and salts of isomers, unless specifically  
13 excepted, when the existence of these salts, isomers, and salts of  
14 isomers is possible within the specific chemical designation:

- 15 1. Methcathinone;
- 16 2. 3, 4-methylenedioxy amphetamine;
- 17 3. 3, 4-methylenedioxy methamphetamine;
- 18 4. 5-methoxy-3, 4-methylenedioxy amphetamine;
- 19 5. 3, 4, 5-trimethoxy amphetamine;
- 20 6. Bufotenine;
- 21 7. Diethyltryptamine;
- 22 8. Dimethyltryptamine;
- 23 9. 4-methyl-2, 5-dimethoxyamphetamine;

- 1 10. Ibogaine;
- 2 11. Lysergic acid diethylamide;
- 3 12. Marihuana;
- 4 13. Mescaline;
- 5 14. N-benzylpiperazine;
- 6 15. N-ethyl-3-piperidyl benzilate;
- 7 16. N-methyl-3-piperidyl benzilate;
- 8 17. Psilocybin;
- 9 18. Psilocyn;
- 10 19. 2, 5 dimethoxyamphetamine;
- 11 20. 4 Bromo-2, 5-dimethoxyamphetamine;
- 12 21. 4 methoxyamphetamine;
- 13 22. Cyclohexamine;
- 14 23. Salvia Divinorum;
- 15 24. Salvinorin A;
- 16 25. Thiophene Analog of Phencyclidine. Also known as: 1-(1-(2-
- 17 thienyl) cyclohexyl) piperidine; 2-Thienyl Analog of Phencyclidine;
- 18 TPCP, TCP;
- 19 26. Phencyclidine (PCP);
- 20 27. Pyrrolidine Analog for Phencyclidine. Also known as 1-(1-
- 21 Phenycyclohexyl) - Pyrrolidine, PCPy, PHP;
- 22 28. 1-(3-[trifluorometh-ylphenyl]) piperazine;
- 23 29. Flunitrazepam;
- 24

- 1 30. B-hydroxy-amphetamine;
- 2 31. B-ketoamphetamine;
- 3 32. 2,5-dimethoxy-4-nitroamphetamine;
- 4 33. 2,5-dimethoxy-4-bromophenethylamine;
- 5 34. 2,5-dimethoxy-4-chlorophenethylamine;
- 6 35. 2,5-dimethoxy-4-iodoamphetamine;
- 7 36. 2,5-dimethoxy-4-iodophenethylamine;
- 8 37. 2,5-dimethoxy-4-methylphenethylamine;
- 9 38. 2,5-dimethoxy-4-ethylphenethylamine;
- 10 39. 2,5-dimethoxy-4-fluorophenethylamine;
- 11 40. 2,5-dimethoxy-4-nitrophenethylamine;
- 12 41. 2,5-dimethoxy-4-ethylthio-phenethylamine;
- 13 42. 2,5-dimethoxy-4-isopropylthio-phenethylamine;
- 14 43. 2,5-dimethoxy-4-propylthio-phenethylamine;
- 15 44. 2,5-dimethoxy-4-cyclopropylmethylthio-phenethylamine;
- 16 45. 2,5-dimethoxy-4-tert-butylthio-phenethylamine;
- 17 46. 2,5-dimethoxy-4-(2-fluoroethylthio)-phenethylamine;
- 18 47. 5-methoxy-N, N-dimethyltryptamine;
- 19 48. N-methyltryptamine;
- 20 49. A-ethyltryptamine;
- 21 50. A-methyltryptamine;
- 22 51. N, N-diethyltryptamine;
- 23 52. N, N-diisopropyltryptamine;

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- 1 53. N, N-dipropyltryptamine;
- 2 54. 5-methoxy-a-methyltryptamine;
- 3 55. 4-hydroxy-N, N-diethyltryptamine;
- 4 56. 4-hydroxy-N, N-diisopropyltryptamine;
- 5 57. 5-methoxy-N, N-diisopropyltryptamine;
- 6 58. 4-hydroxy-N-isopropyl-N-methyltryptamine;
- 7 59. 3,4-Methylenedioxy methcathinone (Methylone);
- 8 60. 3,4-Methylenedioxy pyrovalerone (MDPV);
- 9 61. 4-Methylmethcathinone (Mephedrone);
- 10 62. 4-methoxymethcathinone;
- 11 63. 4-Fluoromethcathinone;
- 12 64. 3-Fluoromethcathinone;
- 13 65. 1-(8-bromobenzo[1,2-b;4,5-b']difuran-4-yl)-2-aminopropane;
- 14 66. 2,5-Dimethoxy-4-chloroamphetamine;
- 15 67. ~~4-Methylmethcathinone~~ 4-Methylethcathinone;
- 16 68. Pyrovalerone;
- 17 69. N,N-diallyl-5-methoxytryptamine;
- 18 70. 3,4-Methylenedioxy-N-ethylcathinone (Ethylone);
- 19 71. B-keto-N-Methylbenzodioxolylbutanamine (Butylone); ~~or~~
- 20 72. B-keto-Methylbenzodioxolylpentanamine (Pentylone);
- 21 73. Alpha-Pyrrolidinopentiophenone;
- 22 74. 4-Fluoroamphetamine;
- 23 75. Pentredone;
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1     76. 4'-Methyl-a-pyrrolidinohexaphenone;

2     77. 2,5-dimethoxy-4-(n)-propylphenethylamine;

3     78. 2,5-dimethoxyphenethylamine;

4     79. 1,4-Dibenzylpiperazine;

5     80. N,N-Dimethylamphetamine;

6     81. 4-Fluoromethamphetamine;

7     82. 4-Chloro-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine;

8     or

9     83. 4-Iodo-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine.

10     D. Unless specifically excepted or unless listed in a different  
11 schedule, any material, compound, mixture, or preparation which  
12 contains any quantity of the following substances having stimulant  
13 or depressant effect on the central nervous system:

14     1. Fenethylamine;

15     2. Mephedrone;

16     3. N-ethylamphetamine;

17     4. Methamphetamine;

18     5. Gamma-Hydroxybutyric Acid, also known as GHB, gamma-  
19 hydroxybutyrate, 4-hydroxybutyrate, 4-hydroxybutanoic acid, sodium  
20 oxybate, and sodium oxybutyrate;

21     6. Gamma-Butyrolactone (GBL) as packaged, marketed,  
22 manufactured or promoted for human consumption, with the exception  
23 of legitimate food additive and manufacturing purposes;

1 7. Gamma Hydroxyvalerate (GHV) as packaged, marketed, or  
2 manufactured for human consumption, with the exception of legitimate  
3 food additive and manufacturing purposes;

4 8. Gamma Valerolactone (GVL) as packaged, marketed, or  
5 manufactured for human consumption, with the exception of legitimate  
6 food additive and manufacturing purposes; or

7 9. 1,4 Butanediol (1,4 BD or BDO) as packaged, marketed,  
8 manufactured, or promoted for human consumption with the exception  
9 of legitimate manufacturing purposes.

10 E. 1. The following industrial uses of Gamma-Butyrolactone,  
11 Gamma Hydroxyvalerate, Gamma Valerolactone, or 1,4 Butanediol are  
12 excluded from all schedules of controlled substances under this  
13 title:

- 14 a. pesticides,
- 15 b. photochemical etching,
- 16 c. electrolytes of small batteries or capacitors,
- 17 d. viscosity modifiers in polyurethane,
- 18 e. surface etching of metal coated plastics,
- 19 f. organic paint disbursements for water soluble inks,
- 20 g. pH regulators in the dyeing of wool and polyamide  
21 fibers,
- 22 h. foundry chemistry as a catalyst during curing,

23  
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- 1 i. curing agents in many coating systems based on  
2 urethanes and amides,  
3 j. additives and flavoring agents in food, confectionary,  
4 and beverage products,  
5 k. synthetic fiber and clothing production,  
6 l. tetrahydrofuran production,  
7 m. gamma butyrolactone production,  
8 n. polybutylene terephthalate resin production,  
9 o. polyester raw materials for polyurethane elastomers  
10 and foams,  
11 p. coating resin raw material, and  
12 q. as an intermediate in the manufacture of other  
13 chemicals and pharmaceuticals.

14 2. At the request of any person, the Director may exempt any  
15 other product containing Gamma-Butyrolactone, Gamma Hydroxyvalerate,  
16 Gamma Valerolactone, or 1,4 Butanediol from being included as a  
17 Schedule I controlled substance if such product is labeled,  
18 marketed, manufactured and distributed for legitimate industrial use  
19 in a manner that reduces or eliminates the likelihood of abuse.

20 3. In making a determination regarding an industrial product,  
21 the Director, after notice and hearing, shall consider the  
22 following:

- 23 a. the history and current pattern of abuse,  
24

- 1           b.    the name and labeling of the product,  
2           c.    the intended manner of distribution, advertising and  
3                promotion of the product, and  
4           d.    other factors as may be relevant to and consistent  
5                with the public health and safety.

6           4.    The hearing shall be held in accordance with the procedures  
7 of the Administrative Procedures Act.

8           F.    Any material, compound, mixture, or preparation which  
9 contains any quantity of a the following synthetic chemical compound  
10 compounds that is-a are cannabinoid receptor agonist agonists and  
11 mimics mimic the pharmacological effect effects of naturally  
12 occurring substances including, their salts, isomers, and salts of  
13 isomers, unless specifically excepted, when the existence of these  
14 salts, isomers, and salts of isomers is possible within the specific  
15 chemical designation:

- 16           1.    JWH-004;  
17           2.    JWH-007;  
18           3.    JWH-009;  
19           4.    JWH-015;  
20           5.    JWH-016;  
21           6.    JWH-018;  
22           7.    JWH-019;  
23           8.    JWH-020;

- 1 9. JWH-030;
- 2 10. JWH-046;
- 3 11. JWH-047;
- 4 12. JWH-048;
- 5 13. JWH-049;
- 6 14. JWH-050;
- 7 15. JWH-070;
- 8 16. JWH-071;
- 9 17. JWH-072;
- 10 18. JWH-073;
- 11 19. JWH-076;
- 12 20. JWH-079;
- 13 21. JWH-080;
- 14 22. JWH-081;
- 15 23. JWH-082;
- 16 24. JWH-094;
- 17 25. JWH-096;
- 18 26. JWH-098;
- 19 27. JWH-116;
- 20 28. JWH-120;
- 21 29. JWH-122;
- 22 30. JWH-145;
- 23 31. JWH-146;

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- 1 32. JWH-147;
- 2 33. JWH-148;
- 3 34. JWH-149;
- 4 35. JWH-150;
- 5 36. JWH-156;
- 6 37. JWH-167;
- 7 38. JWH-175;
- 8 39. JWH-180;
- 9 40. JWH-181;
- 10 41. JWH-182;
- 11 42. JWH-184;
- 12 43. JWH-185;
- 13 44. JWH-189;
- 14 45. JWH-192;
- 15 46. JWH-193;
- 16 47. JWH-194;
- 17 48. JWH-195;
- 18 49. JWH-196;
- 19 50. JWH-197;
- 20 51. JWH-198;
- 21 52. JWH-199;
- 22 53. JWH-200;
- 23 54. JWH-201;
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- 1 55. JWH-202;
- 2 56. JWH-203;
- 3 57. JWH-204;
- 4 58. JWH-205;
- 5 59. JWH-206;
- 6 60. JWH-207;
- 7 61. JWH-208;
- 8 62. JWH-209;
- 9 63. JWH-210;
- 10 64. JWH-211;
- 11 65. JWH-212;
- 12 66. JWH-213;
- 13 67. JWH-234;
- 14 68. JWH-235;
- 15 69. JWH-236;
- 16 70. JWH-237;
- 17 71. JWH-239;
- 18 72. JWH-240;
- 19 73. JWH-241;
- 20 74. JWH-242;
- 21 75. JWH-243;
- 22 76. JWH-244;
- 23 77. JWH-245;
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- 1 78. JWH-246;
- 2 79. JWH-248;
- 3 80. JWH-249;
- 4 81. JWH-250;
- 5 82. JWH-251;
- 6 83. JWH-252;
- 7 84. JWH-253;
- 8 85. JWH-262;
- 9 86. JWH-292;
- 10 87. JWH-293;
- 11 88. JWH-302;
- 12 89. JWH-303;
- 13 90. JWH-304;
- 14 91. JWH-305;
- 15 92. JWH-306;
- 16 93. JWH-307;
- 17 94. JWH-308;
- 18 95. JWH-311;
- 19 96. JWH-312;
- 20 97. JWH-313;
- 21 98. JWH-314;
- 22 99. JWH-315;
- 23 100. JWH-316;
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- 1 101. JWH-346;
- 2 102. JWH-348;
- 3 103. JWH-363;
- 4 104. JWH-364;
- 5 105. JWH-365;
- 6 106. JWH-367;
- 7 107. JWH-368;
- 8 108. JWH-369;
- 9 109. JWH-370;
- 10 110. JWH-371;
- 11 111. JWH-373;
- 12 112. JWH-386;
- 13 113. JWH-387;
- 14 114. JWH-392;
- 15 115. JWH-394;
- 16 116. JWH-395;
- 17 117. JWH-397;
- 18 118. JWH-398;
- 19 119. JWH-399;
- 20 120. JWH-400;
- 21 121. JWH-412;
- 22 122. JWH-413;
- 23 123. JWH-414;
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- 1 124. JWH-415;  
2 125. CP-55, 940;  
3 126. CP-47, 497;  
4 127. HU-210;  
5 128. HU-211;  
6 129. WIN-55, 212-2;  
7 130. AM-2201;  
8 131. AM-2233; ~~and~~  
9 132. JWH-018 adamantyl-carboxamide;  
10 133. AKB48;  
11 134. JWH-122 N-(4-pentenyl) analog;  
12 135. MAM2201;  
13 136. URB597;  
14 137. URB602;  
15 138. URB754;  
16 139. UR144;  
17 140. XLR11;  
18 141. A-796,260; and  
19 142. STS-135.

20 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-206, is  
21 amended to read as follows:

22 Section 2-206. The controlled substances listed in this section  
23 are included in Schedule II.

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1 A. Any of the following substances except those narcotic drugs  
2 listed in other schedules whether produced directly or indirectly by  
3 extraction from substances of vegetable origin, or independently by  
4 means of chemical synthesis, or by combination of extraction and  
5 chemical synthesis:

6 1. Opium and opiate, and any salt, compound, derivative, or  
7 preparation of opium or opiate;

8 2. Any salt, compound, isomer, derivative, or preparation  
9 thereof which is chemically equivalent or identical with any of the  
10 substances referred to in paragraph 1 of this subsection, but not  
11 including the isoquinoline alkaloids of opium;

12 3. Opium poppy and poppy straw; or

13 4. Coca leaves except coca leaves and extracts of coca leaves  
14 from which cocaine, ecgonine, and derivatives of ecgonine or their  
15 salts have been removed; cocaine, its salts, optical and geometric  
16 isomers, and salts of isomers; ecgonine, its derivatives, their  
17 salts, isomers and salts of isomers; or any compound, mixture or  
18 preparation which contains any quantity of any of the substances  
19 referred to in this paragraph.

20 B. Any of the following opiates, including their isomers,  
21 esters, ethers, salts, and salts of isomers, esters and ethers, when  
22 the existence of these isomers, esters, ethers, and salts is  
23 possible within the specific chemical designation:

- 1 1. Alphaprodine;
- 2 2. Anileridine;
- 3 3. Bezitramide;
- 4 4. Dihydrocodeine;
- 5 5. Diphenoxylate;
- 6 6. Fentanyl;
- 7 7. Hydromorphone;
- 8 8. Isomethadone;
- 9 9. Levomethorphan;
- 10 10. Levorphanol;
- 11 11. Metazocine;
- 12 12. Methadone;
- 13 13. Methadone - Intermediate, 4-cyano-2-dimethylamino-4, 4-
- 14 diphenyl butane;
- 15 14. Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-
- 16 diphenyl-propane-carboxylic acid;
- 17 15. Oxycodone;
- 18 16. Oxymorphone;
- 19 17. Pethidine (Meperidine);
- 20 18. Pethidine - Intermediate - A, 4-cyano-1-methyl-4-
- 21 phenylpiperidine;
- 22 19. Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-
- 23 carboxylate;

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- 1        20. Pethidine - Intermediate - C, 1-methyl-4-phenylpiperidine-  
2 4-carboxylic acid;
- 3        21. Phenazocine;
- 4        22. Piminodine;
- 5        23. Racemethorphan;
- 6        24. Racemorphan;
- 7        25. Etorphine Hydrochloride salt only;
- 8        26. Alfentanil hydrochloride;
- 9        27. Levo-alphaacetylmethadol;
- 10       28. Codeine;
- 11       29. Hydrocodone;
- 12       30. Morphine;
- 13       31. Remifentanil; ~~or~~
- 14       32. Sufentanil; or
- 15       33. Tapentadol.
- 16       C. Any substance which contains any quantity of:
- 17       1. Methamphetamine, including its salts, isomers, and salts of  
18 isomers;
- 19       2. Amphetamine, its salts, optical isomers, and salts of its  
20 optical isomers; ~~or~~
- 21       3. Nabilone; or
- 22       4. Lisdexamfetamine.
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1 D. Unless specifically excepted or unless listed in another  
2 schedule, any material, compound, mixture, or preparation, which  
3 contains any quantity of the following substances having stimulant  
4 or depressant effect on the central nervous system:

- 5 1. Phenmetrazine and its salts;
- 6 2. Methylphenidate;
- 7 3. Amobarbital;
- 8 4. Pentobarbital; or
- 9 5. Secobarbital.

10 SECTION 3. AMENDATORY 63 O.S. 2011, Section 2-210, as  
11 amended by Section 4, Chapter 80, O.S.L. 2012 (63 O.S. Supp. 2012,  
12 Section 2-210), is amended to read as follows:

13 Section 2-210. A. Any material, compound, mixture, or  
14 preparation which contains any quantity of the following substances  
15 having a potential for abuse associated with a stimulant or  
16 depressant effect on the central nervous system:

- 17 1. Chloral betaine;
- 18 2. Chloral hydrate;
- 19 3. Ethchlorvynol;
- 20 4. Ethinamate;
- 21 5. Meprobamate;
- 22 6. Paraldehyde;
- 23 7. Petrichloral;

- 1 8. Diethylpropion;
- 2 9. Phentermine;
- 3 10. Pemoline;
- 4 11. Chlordiazepoxide;
- 5 12. Chlordiazepoxide and its salts, but not including
- 6 chlordiazepoxide hydrochloride and clidinium bromide or
- 7 chlordiazepoxide and water-soluble esterified estrogens;
- 8 13. Diazepam;
- 9 14. Oxazepam;
- 10 15. Clorazepate;
- 11 16. Flurazepam and its salts;
- 12 17. Clonazepam;
- 13 18. Barbitol;
- 14 19. Mebutamate;
- 15 20. Methohexital;
- 16 21. Methylphenobarbital;
- 17 22. Phenobarbital;
- 18 23. Fenfluramine;
- 19 24. Pentazocine;
- 20 25. Propoxyphene;
- 21 26. Butorphanol;
- 22 27. Alprazolam;
- 23 28. Halazepam;

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- 1        29. Lorazepam;
- 2        30. Prazepam;
- 3        31. Temazepam;
- 4        32. Triazolam;
- 5        33. Carisoprodol;
- 6        34. ~~Ephedrine, its salts, optical isomers, and salts of optical~~
- 7 ~~isomers as the only active ingredient, or in combination with other~~
- 8 ~~active ingredients;~~
- 9        ~~35.~~ Dichloralphenazone;
- 10       ~~36.~~ 35. Estazolam;
- 11       ~~37.~~ 36. Eszopiclone;
- 12       ~~38.~~ 37. Midazolam;
- 13       ~~39.~~ 38. Modafinil;
- 14       ~~40.~~ 39. Zaleplon;
- 15       ~~41.~~ 40. Zolpidem; or
- 16       ~~42.~~ 41. Tramadol.

17        B. 1. The following nonnarcotic substances, which may, under

18 the Federal Food, Drug, and Cosmetic Act (21 U.S.C., Section 301),

19 be lawfully sold over the counter without a prescription, are

20 excluded from all schedules of controlled substances under this

21 title:

- 22            a. Breathe-Aid,
- 23            b. BronCare,

24

- c. Bronchial Congestion,
- d. Bronkaid Tablets,
- e. Bronkaid Dual Action Caplets,
- f. Bronkotabs,
- g. Bronkolixir,
- h. NeoRespin,
- i. Pazo Hemorrhoid Ointment and Suppositories,
- j. Primatene Tablets,
- k. Primatene "Dual Action" Formula,
- l. Quelidrine,
- m. Resp, and
- n. Vatronal Nose Drops.

2. At the request of any person, the Director may exempt any other drug product containing ephedrine from being included as a Schedule IV controlled substance if such product:

- a. is labeled and marketed in a manner consistent with the pertinent OTC tentative final or final monograph issued by the FDA, and
- b. is manufactured and distributed for legitimate medicinal use and in a manner that reduces or eliminates the likelihood of abuse.

3. In making a determination regarding a drug product, the Director, after notice and hearing, shall consider the following:

- 1 a. the history and current pattern of abuse,  
2 b. the name and labeling of the product,  
3 c. the intended manner of distribution, advertising and  
4 promotion of the product, and  
5 d. other factors as may be relevant to and consistent  
6 with the public health and safety.

7 4. The hearing shall be held in accordance with the  
8 Administrative Procedures Act.

9 5. A list of current drug products meeting exemption  
10 requirements under this subsection may be obtained from the Bureau  
11 upon written request.

12 C. The Board of Pharmacy may except by rule any compound,  
13 mixture, or preparation containing any depressant substance listed  
14 in subsection A of this section from the application of all or any  
15 part of the Uniform Controlled Dangerous Substances Act, Section 2-  
16 101 et seq. of this title, if the compound, mixture, or preparation  
17 contains one or more active medicinal ingredients not having a  
18 depressant effect on the central nervous system, and if the  
19 admixtures are included therein in combinations, quantity,  
20 proportion, or concentration that vitiate the potential for abuse of  
21 the substances which have a depressant effect on the central nervous  
22 system.

1 SECTION 4. AMENDATORY 63 O.S. 2011, Section 2-212, as  
2 amended by Section 2, Chapter 206, O.S.L. 2012 (63 O.S. Supp. 2012,  
3 Section 2-212), is amended to read as follows:

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

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

12 a. not more than two hundred (200) milligrams of codeine,  
13 or any of its salts, per one hundred (100) milliliters  
14 or per one hundred (100) grams,

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

18 c. not more than one hundred (100) milligrams of  
19 ethylmorphine, or any of its salts, per one hundred  
20 (100) milliliters or per one hundred (100) grams,

21 d. not more than two and five-tenths (2.5) milligrams of  
22 diphenoxylate and not less than twenty-five (25)  
23 micrograms of atropine sulfate per dosage unit, or  
24

1 e. not more than one hundred (100) milligrams of opium  
2 per one hundred (100) milliliters or per one hundred  
3 (100) grams.

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

9 a. it shall be dispensed, sold, or distributed only by,  
10 or under the supervision of, a licensed pharmacist or  
11 a registered pharmacy technician,

12 b. a service charge not to exceed the purchase price of  
13 the product, mixture or preparation may be assessed  
14 and collected by the licensed pharmacist or registered  
15 pharmacy technician at the point of sale from the  
16 person seeking to purchase, receive or otherwise  
17 acquire a pseudoephedrine product or products. Upon  
18 receipt of payment of the service charge, the licensed  
19 pharmacist or registered pharmacy technician shall  
20 access the methamphetamine offender registry and  
21 verify whether the person is an individual who is  
22 listed on the methamphetamine offender registry. Upon  
23 verification that the person is an individual who is  
24

1 not listed on the methamphetamine offender registry,  
2 the service charge shall be deducted from the total  
3 purchase price of the pseudoephedrine product or  
4 products. Upon verification that the person is an  
5 individual who is listed on the methamphetamine  
6 offender registry, the person shall be prohibited from  
7 purchasing the pseudoephedrine product or products and  
8 shall be required to forfeit the service charge  
9 previously collected by the licensed pharmacist or  
10 registered pharmacy technician. Any pharmacy that  
11 requires the assessment and collection of a service  
12 charge for pseudoephedrine products shall post a clear  
13 and conspicuous sign at each public entrance to the  
14 place of business and at each register within the  
15 pharmacy that provides notice to customers of the  
16 pharmacy that a service charge shall be assessed and  
17 collected for pseudoephedrine products and, upon  
18 verification that the person is listed on the  
19 methamphetamine offender registry, the service charge  
20 shall be forfeited and retained by the pharmacy, and  
21 c. any person who is not an individual listed on the  
22 methamphetamine offender registry that is purchasing,  
23 receiving, or otherwise acquiring any compound,  
24

1 mixture, or preparation shall produce a driver  
2 license, passport, military identification, or other  
3 state-issued identification card and shall sign a  
4 written or electronic log, receipt, or other program  
5 or mechanism approved by the Oklahoma Bureau of  
6 Narcotics and Dangerous Drugs Control, showing:

- 7 (1) the date and time of the transaction,
- 8 (2) name, address and date of birth of the purchaser,
- 9 (3) driver license number, passport, military  
10 identification, or state-issued identification  
11 number and state of residence of the purchaser,
- 12 (4) name and initials of the pharmacist or pharmacy  
13 technician conducting the transaction,
- 14 (5) the product being sold, ~~and~~
- 15 (6) total quantity, in grams, of base pseudoephedrine  
16 or ephedrine purchased, and
- 17 (7) attestation by the person receiving the compound,  
18 mixture or preparation that the person is not  
19 subject to the Methamphetamine Offender Registry  
20 Act.

21 No person shall purchase, receive, or otherwise acquire more  
22 than three and six-tenths (3.6) grams of any product, mixture, or  
23 preparation per day or more than seven and two-tenths (7.2) grams of  
24

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

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

21 B. The Director of the Oklahoma State Bureau of Narcotics and  
22 Dangerous Drugs Control, by rule, may exempt other products from  
23 this Schedule which the Director finds are not used in the illegal  
24

1 manufacture of methamphetamine or other controlled dangerous  
2 substances. A manufacturer of a drug product may apply for removal  
3 of the product from the Schedule if the product is determined by the  
4 Director to have been formulated in such a way as to effectively  
5 prevent the conversion of the active ingredient into  
6 methamphetamine.

7 SECTION 5. AMENDATORY 63 O.S. 2011, Section 2-309D, as  
8 amended by Section 1, Chapter 51, O.S.L. 2012 (63 O.S. Supp. 2012,  
9 Section 2-309D), is amended to read as follows:

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

14 1. Peace officers certified pursuant to Section 3311 of Title  
15 70 of the Oklahoma Statutes who are employed as investigative agents  
16 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs  
17 Control;

18 2. The United States Drug Enforcement Administration Diversion  
19 Group Supervisor;

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

- 22 a. Board of Podiatric Medical Examiners,  
23 b. Board of Dentistry,

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- c. State Board of Pharmacy,
- d. State Board of Medical Licensure and Supervision,
- e. State Board of Osteopathic Examiners,
- f. State Board of Veterinary Medical Examiners, and
- g. Oklahoma Health Care Authority;

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

4. A multicounty grand jury properly convened pursuant to the Multicounty Grand Jury Act.

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

C. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of statistical information gathered

1 from the central repository to the general public which shall be  
2 limited to types and quantities of controlled substances dispensed  
3 and the county where dispensed.

4 D. Any unauthorized disclosure of any information collected at  
5 the central repository provided by the Anti-Drug Diversion Act shall  
6 be a misdemeanor. Violation of the provisions of this section shall  
7 be deemed willful neglect of duty and shall be grounds for removal  
8 from office.

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

19 F. Information regarding nonfatal overdoses, other than  
20 statistical information as required by Section 2-106 of this title,  
21 shall be completely confidential. Access to this information shall  
22 be strictly limited to the Director of the Oklahoma State Bureau of  
23 Narcotics and Dangerous Drugs Control or designee, the Chief Medical  
24

1 Examiner, and the registrant that enters the information.  
2 Registrants shall not be liable to any person for a claim of damages  
3 for information reported pursuant to the provisions of Section 2-105  
4 of this title.

5 SECTION 6. AMENDATORY 63 O.S. 2011, Section 2-332, is  
6 amended to read as follows:

7 Section 2-332. A. It shall be unlawful for a person to  
8 knowingly and unlawfully possess a drug product containing  
9 ephedrine, pseudoephedrine or phenylpropanolamine, or their salts,  
10 isomers or salts of isomers with intent to use the product as a  
11 precursor to manufacture methamphetamine or another controlled  
12 substance.

13 B. Except as provided in this subsection, possession of a drug  
14 product containing more than ~~nine (9)~~ seven and two-tenths (7.2)  
15 grams of ephedrine, pseudoephedrine or phenylpropanolamine, or their  
16 salts, isomers or salts of isomers shall constitute a rebuttable  
17 presumption of the intent to use the product as a precursor to  
18 methamphetamine or another controlled substance. The rebuttable  
19 presumption established by this subsection shall not apply to the  
20 following persons who are lawfully possessing drug products in the  
21 course of legitimate business:

- 22 1. A retail distributor of drug products or wholesaler;  
23  
24

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

1           2. A wholesale drug distributor, or its agents, licensed by the  
2 Board of Pharmacy;

3           3. A manufacturer of drug products, or its agents, licensed by  
4 the Board of Pharmacy;

5           4. A pharmacist licensed by the Board of Pharmacy; and

6           5. A licensed healthcare professional possessing the drug  
7 products in the course of carrying out his profession.

8           C. A violation of subsection A of this section shall be a  
9 felony punishable as provided for in subsection G of Section 2-401  
10 of this title.

11           D. Any wholesaler, manufacturer, or distributor of drug  
12 products containing pseudoephedrine or phenylpropanolamine, or their  
13 salts, isomers, or salts of isomers shall obtain a registration  
14 annually from the Oklahoma State Bureau of Narcotics and Dangerous  
15 Drugs Control. Any such wholesaler, manufacturer, or distributor  
16 shall keep complete records of all transactions involving such drug  
17 products including the names of all parties involved in the  
18 transaction and amount of the drug products involved. The records  
19 shall be kept readily retrievable and separate from all other  
20 invoices or records of transactions not involving such drug  
21 products, and shall be maintained for not less than three (3) years.

22           E. As used in this section:  
23  
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1 1. "Manufacturer" means any person within this state who  
2 produces, compounds, packages, or in any manner initially prepares  
3 for sale or use any drug product described in subsection D of this  
4 section, or any such person in another state if they cause the  
5 products to be compounded, packaged, or transported into this state;

6 2. "Wholesaler" means any person within this state or another  
7 state, other than a manufacturer, who sells, transfers, or in any  
8 manner furnishes a drug product described in subsection A of this  
9 section to any other person in this state for the purpose of being  
10 resold;

11 3. "Distributor" means any person within this state or another  
12 state, other than a manufacturer or wholesaler, who sells, delivers,  
13 transfers, or in any manner furnishes a drug product described in  
14 subsection A of this section to any person who is not the ultimate  
15 user or consumer of the product; and

16 4. "Readily retrievable" means available for inspection without  
17 prior notice at the registration address if that address is within  
18 the State of Oklahoma. If the registration address is in a state  
19 other than Oklahoma, it means records must be furnished within three  
20 (3) working days by courier, facsimile, mail or electronic mail.

21 F. Any substances possessed without a registration as provided  
22 in subsection D of this section shall be subject to forfeiture upon  
23 conviction for a violation of this section.

1 G. In addition to any administrative penalties provided by law,  
2 any violation of subsection D of this section shall be a  
3 misdemeanor, punishable upon conviction by a fine only in an amount  
4 not more than Ten Thousand Dollars (\$10,000.00).

5 SECTION 7. AMENDATORY 63 O.S. 2011, Section 2-701, as  
6 amended by Section 5, Chapter 206, O.S.L. 2012 (63 O.S. Supp. 2012,  
7 Section 2-701), is amended to read as follows:

8 Section 2-701. A. There is hereby created within the Oklahoma  
9 State Bureau of Narcotics and Dangerous Drugs Control a registry of  
10 persons who, after November 1, 2010, have been convicted, whether  
11 upon a verdict or plea of guilty or upon a verdict or plea of nolo  
12 contendere, or received a suspended sentence or any deferred or  
13 probationary term, or are currently serving a sentence or any form  
14 of probation or parole for a crime or attempt to commit a crime  
15 including, but not limited to, unlawful possession, conspiring,  
16 endeavoring, manufacturing, distribution or trafficking of a  
17 precursor or methamphetamines under the provisions of Section 2-322,  
18 2-332, 2-401, 2-402, 2-408 or 2-415 of this title, or any crime  
19 including, but not limited to, crimes involving the possession,  
20 distribution, manufacturing or trafficking of methamphetamines or  
21 illegal amounts of or uses of pseudoephedrine in any federal court,  
22 Indian tribal court, or any court of another state if the person is  
23  
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1 a resident of the State of Oklahoma or seeks to remain in the State  
2 of Oklahoma in excess of ten (10) days.

3 B. It shall be unlawful for any person who knows that he or she  
4 is subject to the registry created in subsection A of this section  
5 to purchase, possess or have control of any Schedule V compound,  
6 mixture, or preparation containing any detectable quantity of  
7 pseudoephedrine, its salts or optical isomers, or salts of optical  
8 isomers. A prescription for pseudoephedrine shall not provide an  
9 exemption for any person to this law. Any person convicted of  
10 violating the provisions of this subsection shall be guilty of a  
11 felony, punishable by imprisonment in the custody of the Department  
12 of Corrections for not less than two (2) years and not more than ten  
13 (10) years, or by a fine of not more than Five Thousand Dollars  
14 (\$5,000.00), or by both such fine and imprisonment.

15 C. The registry created in subsection A of this section shall  
16 be maintained by the Bureau. The registry shall be made available  
17 for registrants who sell or dispense pseudoephedrine-related  
18 products and to law enforcement agencies for law enforcement  
19 purposes through the electronic methamphetamine precursor tracking  
20 service. The electronic methamphetamine precursor tracking service  
21 shall generate a stop-sale alert on any sale of pseudoephedrine to  
22 any individual listed on the methamphetamine offender registry in  
23 real time.

24

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

2 1. Name and address of the person;

3 2. Date of birth of the person;

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

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

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

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

12 E. Beginning November 1, 2010, all district court clerks shall  
13 forward a copy of the judgment and sentence or other applicable  
14 information relating to the disposition of the criminal case and  
15 date of birth of all persons who are subject to the provisions of  
16 the Oklahoma Methamphetamine Offender Registry Act for a violation  
17 of the offenses described in subsection A of this section to the  
18 Bureau. The information shall be sent in an electronic format in a  
19 manner prescribed by the Bureau within ten (10) days of the date of  
20 final disposition of the case. Any person subject to the registry  
21 pursuant to subsection A of this section, having received a deferred  
22 sentence or conviction in a federal court, Indian tribal court, or  
23 any court of another state, shall be required to register and submit

1 a methamphetamine offender registration form in a format prescribed  
2 by the Bureau within ten (10) days of entering the State of Oklahoma  
3 or if incarcerated in a federal institution within the boundaries of  
4 Oklahoma, within ten (10) days of release from the institution.  
5 ~~Failure~~ Knowingly failing to submit the form required by this  
6 subsection shall constitute a misdemeanor.

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

20 G. The Bureau shall remove from the methamphetamine offender  
21 registry the name and other identifying information of a person who  
22 has been convicted of a violation of any of the offenses described  
23 in subsection A of this section ten (10) years after the date of the  
24

1 most recent judgment and sentence. Any person having received a  
2 deferred sentence that expires prior to the ten-year time limitation  
3 may apply to the Bureau to be removed from the registry upon the  
4 completion of the deferred sentence by providing to the Bureau a  
5 certified copy of the dismissal of the case by certified mail. The  
6 Bureau may remove the person from the methamphetamine offender  
7 registry upon expiration of the deferred sentence. The Bureau shall  
8 also be required to notify the provider of the electronic  
9 methamphetamine precursor tracking service when a person is removed  
10 from the methamphetamine offender registry. Upon notification from  
11 the Bureau, the provider of the electronic tracking service shall  
12 remove the name of the person from the electronic methamphetamine  
13 precursor tracking service and the person shall thereafter be  
14 permitted to purchase pseudoephedrine-related products.

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

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

14 J. For the purposes of this section, knowledge that a person  
15 was subject to the methamphetamine offender registry may be proven  
16 through court testimony or any other public notice or publicly  
17 available record including, but not limited to, court records  
18 maintained by the Oklahoma Supreme Court Network and the Oklahoma  
19 Court Information System.

20 K. The Oklahoma State Bureau of Narcotics and Dangerous Drugs  
21 Control shall take necessary actions through the promulgation of  
22 rules and cooperation with pharmacies and the courts to ensure that  
23 notice of the provisions of this section is provided to those  
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1 persons subject to the methamphetamine offender registry as listed  
2 in subsection A of this section.

3 SECTION 8. This act shall become effective November 1, 2013.  
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5 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/14/2013 -  
6 DO PASS, As Amended.  
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