

1 **SENATE FLOOR VERSION**

2 March 26, 2013

3 ENGROSSED HOUSE
4 BILL NO. 2217

By: Derby, Brown, Biggs,
Sherrer and Bennett of the
House

5 and

6 Brooks and Ivester of the
7 Senate

8
9
10 An Act relating to public health and safety; amending
11 63 O.S. 2011, Sections 2-204, as amended by Section
12 2, Chapter 80, O.S.L. 2012, 2-206, 2-210, as amended
13 by Section 4, Chapter 80, O.S.L. 2012, 2-212, as
14 amended by Section 2, Chapter 206, O.S.L. 2012, 2-
15 309D, as amended by Section 1, Chapter 51, O.S.L.
16 2012, and 2-332 (63 O.S. Supp. 2012, Sections 2-204,
17 2-210, 2-212 and 2-309D), which relate to the Uniform
18 Controlled Dangerous Substances Act; adding certain
19 substances to Schedules I and II; deleting certain
20 substance from Schedule IV; modifying guidelines used
21 for dispensing certain product; clarifying
22 confidentiality requirements of investigative
23 information; decreasing gram amount when possessing
24 certain substance; amending 63 O.S. 2011, Section 2-
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.

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

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);
- 24 14. Diampromide;

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

1 39. Proheptazine;

2 40. Properidine;

3 41. Racemoramide; or

4 42. Trimeperidine.

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

9 1. Acetorphine;

10 2. Acetyldihydrocodeine;

11 3. Benzylmorphine;

12 4. Codeine methylbromide;

13 5. Codeine-N-Oxide;

14 6. Cyprenorphine;

15 7. Desomorphine;

16 8. Dihydromorphine;

17 9. Etorphine;

18 10. Heroin;

19 11. Hydromorphinol;

20 12. Methyldesorphine;

21 13. Methylhydromorphine;

22 14. Morphine methylbromide;

23 15. Morphine methylsulfonate;

24 16. Morphine-N-Oxide;

- 1 17. Myrophine;
- 2 18. Nicocodeine;
- 3 19. Nicomorphine;
- 4 20. Normorphine;
- 5 21. Phoclodine; or
- 6 22. Thebacon.

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

- 12 1. Methcathinone;
- 13 2. 3, 4-methylenedioxy amphetamine;
- 14 3. 3, 4-methylenedioxy methamphetamine;
- 15 4. 5-methoxy-3, 4-methylenedioxy amphetamine;
- 16 5. 3, 4, 5-trimethoxy amphetamine;
- 17 6. Bufotenine;
- 18 7. Diethyltryptamine;
- 19 8. Dimethyltryptamine;
- 20 9. 4-methyl-2, 5-dimethoxyamphetamine;
- 21 10. Ibogaine;
- 22 11. Lysergic acid diethylamide;
- 23 12. Marihuana;
- 24 13. Mescaline;

- 1 14. N-benzylpiperazine;
- 2 15. N-ethyl-3-piperidyl benzilate;
- 3 16. N-methyl-3-piperidyl benzilate;
- 4 17. Psilocybin;
- 5 18. Psilocyn;
- 6 19. 2, 5 dimethoxyamphetamine;
- 7 20. 4 Bromo-2, 5-dimethoxyamphetamine;
- 8 21. 4 methoxyamphetamine;
- 9 22. Cyclohexamine;
- 10 23. Salvia Divinorum;
- 11 24. Salvinorin A;
- 12 25. Thiophene Analog of Phencyclidine. Also known as: 1-(1-(2-
- 13 thienyl) cyclohexyl) piperidine; 2-Thienyl Analog of Phencyclidine;
- 14 TPCP, TCP;
- 15 26. Phencyclidine (PCP);
- 16 27. Pyrrolidine Analog for Phencyclidine. Also known as 1-(1-
- 17 Phenylcyclohexyl) - Pyrrolidine, PCPy, PHP;
- 18 28. 1-(3-trifluoromethylphenyl) piperazine;
- 19 29. Flunitrazepam;
- 20 30. B-hydroxy-amphetamine;
- 21 31. B-ketoamphetamine;
- 22 32. 2,5-dimethoxy-4-nitroamphetamine;
- 23 33. 2,5-dimethoxy-4-bromophenethylamine;
- 24 34. 2,5-dimethoxy-4-chlorophenethylamine;

- 1 35. 2,5-dimethoxy-4-iodoamphetamine;
- 2 36. 2,5-dimethoxy-4-iodophenethylamine;
- 3 37. 2,5-dimethoxy-4-methylphenethylamine;
- 4 38. 2,5-dimethoxy-4-ethylphenethylamine;
- 5 39. 2,5-dimethoxy-4-fluorophenethylamine;
- 6 40. 2,5-dimethoxy-4-nitrophenethylamine;
- 7 41. 2,5-dimethoxy-4-ethylthio-phenethylamine;
- 8 42. 2,5-dimethoxy-4-isopropylthio-phenethylamine;
- 9 43. 2,5-dimethoxy-4-propylthio-phenethylamine;
- 10 44. 2,5-dimethoxy-4-cyclopropylmethylthio-phenethylamine;
- 11 45. 2,5-dimethoxy-4-tert-butylthio-phenethylamine;
- 12 46. 2,5-dimethoxy-4-(2-fluoroethylthio)-phenethylamine;
- 13 47. 5-methoxy-N, N-dimethyltryptamine;
- 14 48. N-methyltryptamine;
- 15 49. A-ethyltryptamine;
- 16 50. A-methyltryptamine;
- 17 51. N, N-diethyltryptamine;
- 18 52. N, N-diisopropyltryptamine;
- 19 53. N, N-dipropyltryptamine;
- 20 54. 5-methoxy-a-methyltryptamine;
- 21 55. 4-hydroxy-N, N-diethyltryptamine;
- 22 56. 4-hydroxy-N, N-diisopropyltryptamine;
- 23 57. 5-methoxy-N, N-diisopropyltryptamine;
- 24 58. 4-hydroxy-N-isopropyl-N-methyltryptamine;

- 1 59. 3,4-Methylenedioxy methcathinone (Methylone);
- 2 60. 3,4-Methylenedioxy pyrovalerone (MDPV);
- 3 61. 4-Methylmethcathinone (Mephedrone);
- 4 62. 4-methoxymethcathinone;
- 5 63. 4-Fluoromethcathinone;
- 6 64. 3-Fluoromethcathinone;
- 7 65. 1-(8-bromobenzo 1,2-b;4,5-b' difuran-4-yl)-2-aminopropane;
- 8 66. 2,5-Dimethoxy-4-chloroamphetamine;
- 9 67. ~~4-Methylmethcathinone~~ 4-Methylethcathinone;
- 10 68. Pyrovalerone;
- 11 69. N,N-diallyl-5-methoxytryptamine;
- 12 70. 3,4-Methylenedioxy-N-ethylcathinone (Ethylone);
- 13 71. B-keto-N-Methylbenzodioxolylbutanamine (Butylone); ~~or~~
- 14 72. B-keto-Methylbenzodioxolylpentanamine (Pentylone);
- 15 73. Alpha-Pyrrolidinopentiophenone;
- 16 74. 4-Fluoroamphetamine;
- 17 75. Pentredone;
- 18 76. 4'-Methyl-a-pyrrolidinohexaphenone;
- 19 77. 2,5-dimethoxy-4-(n)-propylphenethylamine;
- 20 78. 2,5-dimethoxyphenethylamine;
- 21 79. 1,4-Dibenzylpiperazine;
- 22 80. N,N-Dimethylamphetamine;
- 23 81. 4-Fluoromethamphetamine;
- 24

1 82. 4-Chloro-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine;

2 or

3 83. 4-Iodo-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine.

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

8 1. Fenethylamine;

9 2. Mephedrone;

10 3. N-ethylamphetamine;

11 4. Methamphetamine;

12 5. Gamma-Hydroxybutyric Acid, also known as GHB, gamma-
13 hydroxybutyrate, 4-hydroxybutyrate, 4-hydroxybutanoic acid, sodium
14 oxybate, and sodium oxybutyrate;

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

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

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

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

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

- 8 a. pesticides,
- 9 b. photochemical etching,
- 10 c. electrolytes of small batteries or capacitors,
- 11 d. viscosity modifiers in polyurethane,
- 12 e. surface etching of metal coated plastics,
- 13 f. organic paint disbursements for water soluble inks,
- 14 g. pH regulators in the dyeing of wool and polyamide
15 fibers,
- 16 h. foundry chemistry as a catalyst during curing,
- 17 i. curing agents in many coating systems based on
18 urethanes and amides,
- 19 j. additives and flavoring agents in food, confectionary,
20 and beverage products,
- 21 k. synthetic fiber and clothing production,
- 22 l. tetrahydrofuran production,
- 23 m. gamma butyrolactone production,
- 24 n. polybutylene terephthalate resin production,

- 1 o. polyester raw materials for polyurethane elastomers
2 and foams,
3 p. coating resin raw material, and
4 q. as an intermediate in the manufacture of other
5 chemicals and pharmaceuticals.

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

12 3. In making a determination regarding an industrial product,
13 the Director, after notice and hearing, shall consider the
14 following:

- 15 a. the history and current pattern of abuse,
16 b. the name and labeling of the product,
17 c. the intended manner of distribution, advertising and
18 promotion of the product, and
19 d. other factors as may be relevant to and consistent
20 with the public health and safety.

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

23 F. Any material, compound, mixture, or preparation which
24 contains any quantity of a the following synthetic chemical compound

1 compounds that ~~is a~~ are cannabinoid receptor ~~agonist~~ agonists and
2 mimics mimic the pharmacological ~~effect~~ effects of naturally
3 occurring substances ~~including~~, their salts, isomers, and salts of
4 isomers, unless specifically excepted, when the existence of these
5 salts, isomers, and salts of isomers is possible within the specific
6 chemical designation:

- 7 1. JWH-004;
- 8 2. JWH-007;
- 9 3. JWH-009;
- 10 4. JWH-015;
- 11 5. JWH-016;
- 12 6. JWH-018;
- 13 7. JWH-019;
- 14 8. JWH-020;
- 15 9. JWH-030;
- 16 10. JWH-046;
- 17 11. JWH-047;
- 18 12. JWH-048;
- 19 13. JWH-049;
- 20 14. JWH-050;
- 21 15. JWH-070;
- 22 16. JWH-071;
- 23 17. JWH-072;
- 24 18. JWH-073;

- 1 19. JWH-076;
- 2 20. JWH-079;
- 3 21. JWH-080;
- 4 22. JWH-081;
- 5 23. JWH-082;
- 6 24. JWH-094;
- 7 25. JWH-096;
- 8 26. JWH-098;
- 9 27. JWH-116;
- 10 28. JWH-120;
- 11 29. JWH-122;
- 12 30. JWH-145;
- 13 31. JWH-146;
- 14 32. JWH-147;
- 15 33. JWH-148;
- 16 34. JWH-149;
- 17 35. JWH-150;
- 18 36. JWH-156;
- 19 37. JWH-167;
- 20 38. JWH-175;
- 21 39. JWH-180;
- 22 40. JWH-181;
- 23 41. JWH-182;
- 24 42. JWH-184;

- 1 43. JWH-185;
- 2 44. JWH-189;
- 3 45. JWH-192;
- 4 46. JWH-193;
- 5 47. JWH-194;
- 6 48. JWH-195;
- 7 49. JWH-196;
- 8 50. JWH-197;
- 9 51. JWH-198;
- 10 52. JWH-199;
- 11 53. JWH-200;
- 12 54. JWH-201;
- 13 55. JWH-202;
- 14 56. JWH-203;
- 15 57. JWH-204;
- 16 58. JWH-205;
- 17 59. JWH-206;
- 18 60. JWH-207;
- 19 61. JWH-208;
- 20 62. JWH-209;
- 21 63. JWH-210;
- 22 64. JWH-211;
- 23 65. JWH-212;
- 24 66. JWH-213;

- 1 67. JWH-234;
- 2 68. JWH-235;
- 3 69. JWH-236;
- 4 70. JWH-237;
- 5 71. JWH-239;
- 6 72. JWH-240;
- 7 73. JWH-241;
- 8 74. JWH-242;
- 9 75. JWH-243;
- 10 76. JWH-244;
- 11 77. JWH-245;
- 12 78. JWH-246;
- 13 79. JWH-248;
- 14 80. JWH-249;
- 15 81. JWH-250;
- 16 82. JWH-251;
- 17 83. JWH-252;
- 18 84. JWH-253;
- 19 85. JWH-262;
- 20 86. JWH-292;
- 21 87. JWH-293;
- 22 88. JWH-302;
- 23 89. JWH-303;
- 24 90. JWH-304;

- 1 91. JWH-305;
- 2 92. JWH-306;
- 3 93. JWH-307;
- 4 94. JWH-308;
- 5 95. JWH-311;
- 6 96. JWH-312;
- 7 97. JWH-313;
- 8 98. JWH-314;
- 9 99. JWH-315;
- 10 100. JWH-316;
- 11 101. JWH-346;
- 12 102. JWH-348;
- 13 103. JWH-363;
- 14 104. JWH-364;
- 15 105. JWH-365;
- 16 106. JWH-367;
- 17 107. JWH-368;
- 18 108. JWH-369;
- 19 109. JWH-370;
- 20 110. JWH-371;
- 21 111. JWH-373;
- 22 112. JWH-386;
- 23 113. JWH-387;
- 24 114. JWH-392;

- 1 115. JWH-394;
- 2 116. JWH-395;
- 3 117. JWH-397;
- 4 118. JWH-398;
- 5 119. JWH-399;
- 6 120. JWH-400;
- 7 121. JWH-412;
- 8 122. JWH-413;
- 9 123. JWH-414;
- 10 124. JWH-415;
- 11 125. CP-55, 940;
- 12 126. CP-47, 497;
- 13 127. HU-210;
- 14 128. HU-211;
- 15 129. WIN-55, 212-2;
- 16 130. AM-2201;
- 17 131. AM-2233; ~~and~~
- 18 132. JWH-018 adamantyl-carboxamide;
- 19 133. AKB48;
- 20 134. JWH-122 N-(4-pentenyl) analog;
- 21 135. MAM2201;
- 22 136. URB597;
- 23 137. URB602;
- 24 138. URB754;

1 139. UR144;

2 140. XLR11;

3 141. A-796,260; and

4 142. STS-135.

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

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

9 A. Any of the following substances except those narcotic drugs
10 listed in other schedules whether produced directly or indirectly by
11 extraction from substances of vegetable origin, or independently by
12 means of chemical synthesis, or by combination of extraction and
13 chemical synthesis:

14 1. Opium and opiate, and any salt, compound, derivative, or
15 preparation of opium or opiate;

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

20 3. Opium poppy and poppy straw; or

21 4. Coca leaves except coca leaves and extracts of coca leaves
22 from which cocaine, ecgonine, and derivatives of ecgonine or their
23 salts have been removed; cocaine, its salts, optical and geometric
24 isomers, and salts of isomers; ecgonine, its derivatives, their

1 salts, isomers and salts of isomers; or any compound, mixture or
2 preparation which contains any quantity of any of the substances
3 referred to in this paragraph.

4 B. Any of the following opiates, including their isomers,
5 esters, ethers, salts, and salts of isomers, esters and ethers, when
6 the existence of these isomers, esters, ethers, and salts is
7 possible within the specific chemical designation:

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

- 1 16. Oxymorphone;
- 2 17. Pethidine (Meperidine);
- 3 18. Pethidine - Intermediate - A, 4-cyano-1-methyl-4-
- 4 phenylpiperidine;
- 5 19. Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-
- 6 carboxylate;
- 7 20. Pethidine - Intermediate - C, 1-methyl-4-phenylpiperidine-
- 8 4-carboxylic acid;
- 9 21. Phenazocine;
- 10 22. Piminodine;
- 11 23. Racemethorphan;
- 12 24. Racemorphan;
- 13 25. Etorphine Hydrochloride salt only;
- 14 26. Alfentanil hydrochloride;
- 15 27. Levo-alphaacetylmethadol;
- 16 28. Codeine;
- 17 29. Hydrocodone;
- 18 30. Morphine;
- 19 31. Remifentanil; ~~or~~
- 20 32. Sufentanil; or
- 21 33. Tapentadol.
- 22 C. Any substance which contains any quantity of:
- 23 1. Methamphetamine, including its salts, isomers, and salts of
- 24 isomers;

1 2. Amphetamine, its salts, optical isomers, and salts of its
2 optical isomers; ~~or~~

3 3. Nabilone; or

4 4. Lisdexamfetamine.

5 D. Unless specifically excepted or unless listed in another
6 schedule, any material, compound, mixture, or preparation, which
7 contains any quantity of the following substances having stimulant
8 or depressant effect on the central nervous system:

9 1. Phenmetrazine and its salts;

10 2. Methylphenidate;

11 3. Amobarbital;

12 4. Pentobarbital; or

13 5. Secobarbital.

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

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

21 1. Chloral betaine;

22 2. Chloral hydrate;

23 3. Ethchlorvynol;

24 4. Ethinamate;

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

- 1 27. Alprazolam;
- 2 28. Halazepam;
- 3 29. Lorazepam;
- 4 30. Prazepam;
- 5 31. Temazepam;
- 6 32. Triazolam;
- 7 33. Carisoprodol;
- 8 34. ~~Ephedrine, its salts, optical isomers, and salts of optical~~
- 9 ~~isomers as the only active ingredient, or in combination with other~~
- 10 ~~active ingredients;~~
- 11 ~~35.~~ Dichloralphenazone;
- 12 ~~36.~~ 35. Estazolam;
- 13 ~~37.~~ 36. Eszopiclone;
- 14 ~~38.~~ 37. Midazolam;
- 15 ~~39.~~ 38. Modafinil;
- 16 ~~40.~~ 39. Zaleplon;
- 17 ~~41.~~ 40. Zolpidem; or
- 18 ~~42.~~ 41. Tramadol.

19 B. 1. The following nonnarcotic substances, which may, under
20 the Federal Food, Drug, and Cosmetic Act (21 U.S.C., Section 301),
21 be lawfully sold over the counter without a prescription, are
22 excluded from all schedules of controlled substances under this
23 title:

- 24 a. Breathe-Aid,

- b. BronCare,
- 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:

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

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

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

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

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

1 state-issued identification card and shall sign a
2 written or electronic log, receipt, or other program
3 or mechanism approved by the Oklahoma Bureau of
4 Narcotics and Dangerous Drugs Control, showing:

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

19 No person shall purchase, receive, or otherwise acquire more
20 than three and six-tenths (3.6) grams of any product, mixture, or
21 preparation per day or more than seven and two-tenths (7.2) grams of
22 any product, mixture, or preparation within any thirty-day period,
23 or sixty (60) grams of any product, mixture, or preparation within a
24 twelve-month period. Once a person has purchased, received or

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

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

18 B. The Director of the Oklahoma State Bureau of Narcotics and
19 Dangerous Drugs Control, by rule, may exempt other products from
20 this Schedule which the Director finds are not used in the illegal
21 manufacture of methamphetamine or other controlled dangerous
22 substances. A manufacturer of a drug product may apply for removal
23 of the product from the Schedule if the product is determined by the
24 Director to have been formulated in such a way as to effectively

1 prevent the conversion of the active ingredient into
2 methamphetamine.

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

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

10 1. Peace officers certified pursuant to Section 3311 of Title
11 70 of the Oklahoma Statutes who are employed as investigative agents
12 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
13 Control;

14 2. The United States Drug Enforcement Administration Diversion
15 Group Supervisor;

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

- 18 a. Board of Podiatric Medical Examiners,
- 19 b. Board of Dentistry,
- 20 c. State Board of Pharmacy,
- 21 d. State Board of Medical Licensure and Supervision,
- 22 e. State Board of Osteopathic Examiners,
- 23 f. State Board of Veterinary Medical Examiners, and
- 24 g. Oklahoma Health Care Authority;

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

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

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

16 C. This section shall not prevent the disclosure, at the
17 discretion of the Director of the Oklahoma State Bureau of Narcotics
18 and Dangerous Drugs Control, of statistical information gathered
19 from the central repository to the general public which shall be
20 limited to types and quantities of controlled substances dispensed
21 and the county where dispensed.

22 D. Any unauthorized disclosure of any information collected at
23 the central repository provided by the Anti-Drug Diversion Act shall
24 be a misdemeanor. Violation of the provisions of this section shall

1 be deemed willful neglect of duty and shall be grounds for removal
2 from office.

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

13 F. Information regarding nonfatal overdoses, other than
14 statistical information as required by Section 2-106 of this title,
15 shall be completely confidential. Access to this information shall
16 be strictly limited to the Director of the Oklahoma State Bureau of
17 Narcotics and Dangerous Drugs Control or designee, the Chief Medical
18 Examiner, and the registrant that enters the information.
19 Registrants shall not be liable to any person for a claim of damages
20 for information reported pursuant to the provisions of Section 2-105
21 of this title.

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

24

1 Section 2-332. A. It shall be unlawful for a person to
2 knowingly and unlawfully possess a drug product containing
3 ephedrine, pseudoephedrine or phenylpropanolamine, or their salts,
4 isomers or salts of isomers with intent to use the product as a
5 precursor to manufacture methamphetamine or another controlled
6 substance.

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

- 16 1. A retail distributor of drug products or wholesaler;
- 17 2. A wholesale drug distributor, or its agents, licensed by the
18 Board of Pharmacy;
- 19 3. A manufacturer of drug products, or its agents, licensed by
20 the Board of Pharmacy;
- 21 4. A pharmacist licensed by the Board of Pharmacy; and
- 22 5. A licensed healthcare professional possessing the drug
23 products in the course of carrying out his profession.

24

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

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

15 E. As used in this section:

16 1. "Manufacturer" means any person within this state who
17 produces, compounds, packages, or in any manner initially prepares
18 for sale or use any drug product described in subsection D of this
19 section, or any such person in another state if they cause the
20 products to be compounded, packaged, or transported into this state;

21 2. "Wholesaler" means any person within this state or another
22 state, other than a manufacturer, who sells, transfers, or in any
23 manner furnishes a drug product described in subsection A of this
24

1 section to any other person in this state for the purpose of being
2 resold;

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

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

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

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

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

23 Section 2-701. A. There is hereby created within the Oklahoma
24 State Bureau of Narcotics and Dangerous Drugs Control a registry of

1 persons who, after November 1, 2010, have been convicted, whether
2 upon a verdict or plea of guilty or upon a verdict or plea of nolo
3 contendere, or received a suspended sentence or any deferred or
4 probationary term, or are currently serving a sentence or any form
5 of probation or parole for a crime or attempt to commit a crime
6 including, but not limited to, unlawful possession, conspiring,
7 endeavoring, manufacturing, distribution or trafficking of a
8 precursor or methamphetamines under the provisions of Section 2-322,
9 2-332, 2-401, 2-402, 2-408 or 2-415 of this title, or any crime
10 including, but not limited to, crimes involving the possession,
11 distribution, manufacturing or trafficking of methamphetamines or
12 illegal amounts of or uses of pseudoephedrine in any federal court,
13 Indian tribal court, or any court of another state if the person is
14 a resident of the State of Oklahoma or seeks to remain in the State
15 of Oklahoma in excess of ten (10) days.

16 B. It shall be unlawful for any person who knows that he or she
17 is subject to the registry created in subsection A of this section
18 to purchase, possess or have control of any Schedule V compound,
19 mixture, or preparation containing any detectable quantity of
20 pseudoephedrine, its salts or optical isomers, or salts of optical
21 isomers. A prescription for pseudoephedrine shall not provide an
22 exemption for any person to this law. Any person convicted of
23 violating the provisions of this subsection shall be guilty of a
24 felony, punishable by imprisonment in the custody of the Department

1 of Corrections for not less than two (2) years and not more than ten
2 (10) years, or by a fine of not more than Five Thousand Dollars
3 (\$5,000.00), or by both such fine and imprisonment.

4 C. The registry created in subsection A of this section shall
5 be maintained by the Bureau. The registry shall be made available
6 for registrants who sell or dispense pseudoephedrine-related
7 products and to law enforcement agencies for law enforcement
8 purposes through the electronic methamphetamine precursor tracking
9 service. The electronic methamphetamine precursor tracking service
10 shall generate a stop-sale alert on any sale of pseudoephedrine to
11 any individual listed on the methamphetamine offender registry in
12 real time.

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

14 1. Name and address of the person;

15 2. Date of birth of the person;

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

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

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

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

24

1 E. Beginning November 1, 2010, all district court clerks shall
2 forward a copy of the judgment and sentence or other applicable
3 information relating to the disposition of the criminal case and
4 date of birth of all persons who are subject to the provisions of
5 the Oklahoma Methamphetamine Offender Registry Act for a violation
6 of the offenses described in subsection A of this section to the
7 Bureau. The information shall be sent in an electronic format in a
8 manner prescribed by the Bureau within ten (10) days of the date of
9 final disposition of the case. Any person subject to the registry
10 pursuant to subsection A of this section, having received a deferred
11 sentence or conviction in a federal court, Indian tribal court, or
12 any court of another state, shall be required to register and submit
13 a methamphetamine offender registration form in a format prescribed
14 by the Bureau within ten (10) days of entering the State of Oklahoma
15 or if incarcerated in a federal institution within the boundaries of
16 Oklahoma, within ten (10) days of release from the institution.
17 ~~Failure~~ Knowingly failing to submit the form required by this
18 subsection shall constitute a misdemeanor.

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

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

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

24

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

3 H. It shall be a violation for any person to assist another,
4 with knowledge that the person who is subject to the registry,
5 the purchase of any pseudoephedrine products. Any person convicted
6 of violating the provisions of this subsection shall, for a first
7 offense, be guilty of a misdemeanor, punishable by incarceration in
8 the county jail for not more than one (1) year, or by a fine of not
9 more than One Thousand Dollars (\$1,000.00), or by both such fine and
10 imprisonment. Any second or subsequent conviction for a violation
11 of this subsection shall be a felony, punishable by incarceration in
12 the custody of the Department of Corrections for not more than two
13 (2) 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.

1 J. For the purposes of this section, knowledge that a person
2 was subject to the methamphetamine offender registry may be proven
3 through court testimony or any other public notice or publicly
4 available record including, but not limited to, court records
5 maintained by the Oklahoma Supreme Court Network and the Oklahoma
6 Court Information System.

7 K. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
8 Control shall take necessary actions through the promulgation of
9 rules and cooperation with pharmacies and the courts to ensure that
10 notice of the provisions of this section is provided to those
11 persons subject to the methamphetamine offender registry as listed
12 in subsection A of this section.

13 SECTION 8. This act shall become effective November 1, 2013.

14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
15 March 26, 2013 - DO PASS