

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 188

By: Paddack

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5
6 AS INTRODUCED

7 An Act relating to controlled dangerous substances;
8 amending 63 O.S. 2011, Section 2-201, which relates
9 to authority to control; modifying powers of certain
10 director; providing certain exclusions; updating
11 language; and providing an effective date.

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

13 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-201, is
14 amended to read as follows:

15 Section 2-201. A. The Director of the Oklahoma State Bureau of
16 Narcotics and Dangerous Drugs Control shall administer the
17 provisions of ~~this act~~ the Uniform Controlled Dangerous Substances
18 Act except as otherwise provided.

19 B. The Board of Pharmacy by rule may classify new products
20 determined to have a potential for abuse as controlled dangerous
21 substances after notice and hearing; provided that such rule shall
22 be submitted to the next regular session of the Legislature, and
23 such rule shall remain in force and effect unless a concurrent
24 resolution of disapproval is passed. Hearings shall be conducted by

1 the Board, ~~of Pharmacy~~ or such officers, agents or employees as the
2 Board ~~of Pharmacy~~ may designate for the purpose. The Board ~~of~~
3 ~~Pharmacy~~ shall give appropriate notice of the proposed
4 classification and of the time and place for a hearing. The rule so
5 promulgated shall become effective on a date fixed by the Board ~~of~~
6 ~~Pharmacy~~. Such rule may be amended or repealed in the same manner
7 as provided for its adoption. Proceedings pursuant to this
8 subsection shall be governed by the Administrative Procedures Act.
9 A new substance controlled pursuant to this subsection shall be
10 subject to the same regulatory provisions of ~~this act~~ the Uniform
11 Controlled Dangerous Substances Act applicable to the ~~Schedule~~
12 schedule of substances to which it is classified.

13 C. The Director may recommend to the Legislature the addition,
14 deletion or rescheduling of a substance.

15 D. 1. The Director may seek an injunction from the district
16 court of Oklahoma County to prohibit the commercial sale of a
17 specific chemical or substance not otherwise scheduled as a
18 controlled dangerous substance pursuant to Sections 2-204 through 2-
19 212 of this title, if it clearly appears from specific facts, after
20 a hearing before the district court, that the following criteria
21 exist:

22 a. there is a current or imminent danger to the public
23 health and safety, and

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1 b. there is a history and current pattern of abuse,
2 including actual abuse, diversion from legitimate
3 channels or clandestine importation, manufacture or
4 distribution.

5 2. If granted, the injunction shall expire upon a legislative
6 action that has the force and effect of law at the next regular
7 legislative session. If no legislative action is taken, the
8 injunction shall expire automatically on sine die for the next
9 regular legislative session. If the Legislature considers
10 legislation to schedule a substance or substances and does not
11 approve such legislation, that substance or substances shall not be
12 the subject of a subsequent injunction as authorized by this
13 subsection. An injunction allowed to expire or that is terminated
14 by legislative action shall not be renewed. Any order of injunction
15 entered pursuant to this section may be superseded at any time
16 during the period set forth above, whereupon a legislative action is
17 taken either approving or disapproving the listing of the subject
18 chemical or substance as a scheduled controlled dangerous substance.

19 3. Any action by the Director to seek an injunction pursuant to
20 this section must be preceded by one publication in a newspaper of
21 general circulation in the state and by the posting on the website
22 of the Oklahoma State Bureau of Narcotics and Dangerous Drugs
23 Control of a copy of the Director's notice of intent to seek
24 injunction. The notice shall contain the following information:

- a. identification of the substances or chemicals to be affected,
- b. a short and plain statement indicating the basis for seeking the injunction, and
- c. the location and date of hearing.

4. Any notice of hearing pursuant to this section shall be issued at least thirty (30) days prior to any hearing. Any order of injunction issued pursuant to this section shall be enforceable anywhere within this state to prohibit the commercial sale of the identified substances or chemicals. Any violation of an order issued pursuant to this section after receiving notice of the order may be punished as contempt of court subject to the penalties otherwise prescribed by law.

E. In considering whether to make a recommendation or issue an order under this section, the Director or the Board of Pharmacy, as the case may be, shall consider the following:

1. Its actual or relative potential for abuse;
2. Scientific evidence of its pharmacological effect, if known;
3. State of current scientific knowledge regarding the substance;
4. Its history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. What, if any, risk there is to the public health;
7. Its psychic or physiological dependence liability; and

1 8. Whether the substance is an immediate precursor or principal
2 compound of a substance already controlled under this article.

3 ~~E.~~ F. Substances which are precursors of a controlled precursor
4 shall not be subject to control solely because they are precursors
5 of the controlled precursor.

6 ~~F.~~ G. Authority to control under this section does not extend
7 to distilled spirits, wine, malt beverages or tobacco.

8 H. In addition to the filing requirements of the Administrative
9 Procedures Act, copies of orders issued under this section shall,
10 during the time the Legislature is not in session, be ~~filed with~~
11 provided to the Chair and Vice Chair Chairs of the State Legislative
12 Council's Judiciary Committee Committees of the Senate and the House
13 of Representatives.

14 ~~G.~~ I. The Board of Pharmacy shall exclude any nonnarcotic
15 substance from a schedule if such substance may, under the Federal
16 Food, Drug and Cosmetic Act and the law of this state, be lawfully
17 sold over the counter without a prescription.

18 SECTION 2. This act shall become effective November 1, 2013.

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