

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE BILL 1606

By: Enns of the House

5 and

6 Pederson of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to public health and safety; amending
11 63 O.S. 2011, Sections 2-505 and 2-509, which relate
12 to the forfeiture, destruction and eradication of
13 controlled dangerous substances; updating statutory
14 citations and agency designations; deleting specific
herbicide application methods; requiring approval and
15 registration of herbicides used for eradicating
16 plants with the Oklahoma Department of Agriculture,
17 Food, and Forestry; and providing an effective date.

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

19 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-505, is
20 amended to read as follows:

21 Section 2-505. A. All controlled substances in Schedule I of
22 Section ~~2-101 et seq.~~ 2-204 of this title and all controlled
23 substances in Schedules II, III, IV, and V that are not in properly
24 labeled containers in accordance with this act that are possessed,

1 transferred, sold, or offered for sale in violation of this act are
2 deemed contraband and shall be seized and summarily forfeited.

3 B. All hazardous materials and all property contaminated with
4 hazardous materials described in paragraph 2 of subsection A of
5 Section 2-503 of this title, used or intended to be used by persons
6 to unlawfully manufacture or attempt to manufacture any controlled
7 dangerous substance, shall be summarily forfeited to the state and
8 submitted to the Oklahoma State Bureau of Investigation for prompt
9 destruction in accordance with state and federal laws.

10 C. Species of plants from which controlled substances in
11 Schedules I or II of the Uniform Controlled Dangerous Substances
12 Act, ~~Section 2-101 et seq. of this title,~~ may be derived which have
13 been planted or cultivated in violation of the Uniform Controlled
14 Dangerous Substances Act, or of which the owners or cultivators are
15 unknown, or which are wild growths, may be seized by peace officers,
16 summarily forfeited, and, in lieu of the eradication procedures
17 contained in Section 2-509 of this title, promptly cut and burned
18 where seized or destroyed by applications of herbicides approved for
19 such purpose and registered for use in Oklahoma by the Oklahoma
20 Department of Agriculture, Food, and Forestry. ~~Spraying shall be~~
21 ~~limited to the chemical glyphosate and shall be applied directly to~~
22 ~~the plants by hand spraying from portable ground-based spray units~~
23 ~~or by using equipment affixed to rotary-wing aircraft. Any~~
24 ~~application of glyphosate using rotary-wing aircraft shall employ~~

1 ~~equipment and methods capable of spot spraying and under no~~
2 ~~circumstances shall broadcast or other mass spraying methods be~~
3 ~~employed.~~ The Oklahoma State Bureau of Narcotics and Dangerous
4 Drugs Control shall ~~cooperate with the Oklahoma Department of~~
5 ~~Agriculture~~ to ensure that persons spraying the plants are trained
6 in ~~its~~ the appropriate use of the herbicide and any safety and
7 protection issues pursuant to the requirements of the Oklahoma
8 Department of Agriculture, Food, and Forestry.

9 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-509, is
10 amended to read as follows:

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

16 B. It shall be unlawful for any person to cultivate or produce,
17 or to knowingly permit the cultivation, production, or wild growing
18 of any species of such plants, on any lands owned or controlled by
19 such person, and it is hereby declared the duty of every such person
20 to destroy all such plants found growing on lands owned or
21 controlled by ~~him~~ the person.

22 C. 1. Whenever any peace officer of the state shall receive
23 information that any species of any such plants has been found
24 growing on any private lands in the State of Oklahoma, ~~he~~ the peace

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

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

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

16 E. It shall be the duty of any peace officer of the State of
17 Oklahoma who receives information of such plants growing in the
18 State of Oklahoma, to make notice, in writing, to the Oklahoma State
19 Bureau of Narcotics and Dangerous Drugs Control and the future
20 destruction or eradication of the annual growth of such plants shall
21 be supervised by the Oklahoma State Bureau of Narcotics and
22 Dangerous Drugs Control. Any destruction or eradication of the
23 annual growth of such plants supervised by the Bureau shall be by
24 cutting and burning the same or by destruction and eradication

1 through applications of herbicides approved for such purpose and
2 registered for use in Oklahoma by the Oklahoma Department of
3 Agriculture, Food, and Forestry.

4 F. Any application of herbicides authorized by this section
5 shall be made pursuant to the provisions of Section 2-505 of this
6 title.

7 G. In lieu of the eradication procedures provided for in
8 subsections B and C of this section, all species of plants from
9 which controlled dangerous substances in Schedules I and II of the
10 Uniform Controlled Dangerous Substances Act may be derived, may be
11 disposed of pursuant to the provisions of subsection C of Section 2-
12 505 of this title.

13 H. Except as authorized by the Uniform Controlled Dangerous
14 Substances Act, it shall be unlawful for any person to manufacture
15 or attempt to manufacture any controlled dangerous substance by
16 cooking, burning, or extracting and converting or attempting to
17 extract and convert marihuana or marihuana oil into hashish, hashish
18 oil or hashish powder.

19 SECTION 3. This act shall become effective November 1, 2017.
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21 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,
22 dated 02/14/2017 - DO PASS, As Coauthored.
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