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February 8, 2024

**AS AMENDED**

SENATE BILL NO. 1874

By: Weaver

An Act relating to the public health and safety; amending 63 O.S. 2021, Sections 2-505, 2-507, and 2-508, which relate to the Uniform Controlled Dangerous Substances Act; authorizing destruction of certain substances by certain state entities; updating statutory language and references; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-505, is amended to read as follows:

Section 2-505. A. All controlled substances in Schedule I of Section 2-204 of this title and all controlled substances in Schedules II, III, IV, and V that are not in properly labeled containers in accordance with ~~this act~~ the Uniform Controlled Dangerous Substances Act that are possessed, transferred, sold, or offered for sale in violation of ~~this act~~ the Uniform Controlled Dangerous Substances Act are deemed contraband and shall be seized and summarily forfeited.

B. All hazardous materials and all property contaminated with hazardous materials described in paragraph 2 of subsection A of

1 Section 2-503 of this title, used or intended to be used by persons  
2 to unlawfully manufacture or attempt to manufacture any controlled  
3 dangerous substance, shall be summarily forfeited to the state and  
4 submitted to the Oklahoma State Bureau of Investigation (OSBI),  
5 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
6 (OBN), the Oklahoma Highway Patrol (OHP), **the Office of the Attorney**  
7 **General,** or any agency authorized by such entities for prompt  
8 destruction in accordance with state and federal laws.

9 C. Species of plants from which controlled substances in  
10 Schedules I or II of the Uniform Controlled Dangerous Substances Act  
11 may be derived which have been planted or cultivated in violation of  
12 the Uniform Controlled Dangerous Substances Act, or of which the  
13 owners or cultivators are unknown, or which are wild growths, may be  
14 seized by peace officers, summarily forfeited and, in lieu of the  
15 eradication procedures contained in Section 2-509 of this title,  
16 promptly cut and burned where seized or destroyed by applications of  
17 herbicides approved for such purpose and registered for use in  
18 Oklahoma by the Oklahoma Department of Agriculture, Food, and  
19 Forestry. The Oklahoma State Bureau of Narcotics and Dangerous  
20 Drugs Control shall ensure that persons spraying the plants are  
21 trained in the appropriate use of the herbicide and any safety and  
22 protection issues pursuant to the requirements of the Oklahoma  
23 Department of Agriculture, Food, and Forestry.

1       SECTION 2.       AMENDATORY       63 O.S. 2021, Section 2-507, is  
2 amended to read as follows:

3       Section 2-507. Any peace officer of this state seizing any of  
4 the property described in paragraphs 1 and 2 of subsection A of  
5 Section 2-503 of this title shall cause a written inventory to be  
6 made and maintain custody of the same until all legal actions have  
7 been exhausted unless such property has been placed in lawful  
8 custody of a court or state or federal law enforcement agency or  
9 unless otherwise provided by law. After all legal actions have been  
10 exhausted with respect to such property, the property shall be  
11 surrendered by the court, law enforcement agency or person having  
12 custody of the same to the Oklahoma State Bureau of Investigation  
13 (OSBI), Oklahoma State Bureau of Narcotics and Dangerous Drugs  
14 Control (OBN), the Oklahoma Highway Patrol (OHP), **the Office of the**  
15 **Attorney General**, or any agency authorized by such entities to be  
16 destroyed as provided in Section 2-508 of this title. The property  
17 shall be accompanied with a written inventory on forms to be  
18 furnished by the Oklahoma State Bureau of Investigation.

19       SECTION 3.       AMENDATORY       63 O.S. 2021, Section 2-508, is  
20 amended to read as follows:

21       Section 2-508. A. Except as otherwise provided, all property  
22 described in paragraphs 1 and 2 of subsection A of Section 2-503 of  
23 this title which is seized or surrendered pursuant to the provisions  
24 of the Uniform Controlled Dangerous Substances Act shall be

1 destroyed. The destruction shall be done by or at the direction of  
2 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
3 ~~(OSBND)~~ (OBN), who shall have the discretion prior to destruction  
4 to preserve samples of the substance for testing. In any county  
5 with a population of four hundred thousand (400,000) or more  
6 according to the latest Federal Decennial Census, there shall be a  
7 located site, approved by the ~~OSBND~~ OBN, for the destruction of the  
8 property. Any such property submitted to the ~~OSBND~~ OBN which it  
9 deems to be of use for investigative training, educational, or  
10 analytical purposes may be retained by the ~~OSBND~~ OBN in lieu of  
11 destruction.

12 B. 1. With respect to controlled dangerous substances seized  
13 or surrendered pursuant to the provisions of the Uniform Controlled  
14 Dangerous Substances Act, municipal police departments, sheriffs,  
15 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
16 ~~Commission~~ (OBN), the Oklahoma Highway Patrol (OHP), **and** the  
17 Oklahoma State Bureau of Investigation (OSBI), **the Office of the**  
18 **Attorney General**, or any agency authorized by such entities shall  
19 have the authority to destroy seized controlled dangerous substances  
20 when the amount seized in a single incident exceeds ten (10) pounds.  
21 The destroying agency shall:

22 a. photograph the seized substance with identifying case  
23 numbers or other means of identification,  
24

- 1           b.   prepare a report describing the seized substance prior  
2           to the destruction,
- 3           c.   retain at least one (1) pound of the substance  
4           randomly selected from the seized substance for the  
5           purpose of evidence, and
- 6           d.   obtain and retain samples of the substance from enough  
7           containers, bales, bricks, or other units of substance  
8           seized to establish the presence of a weight of the  
9           substance necessary to establish a violation of the  
10          Trafficking in Illegal Drugs Act pursuant to  
11          subsection C of Section 2-415 of this title, if such a  
12          weight is present. If such weight is not present,  
13          samples of the substance from each container, bale,  
14          brick or other unit of substance seized shall be  
15          taken. Each sample taken pursuant to this section  
16          shall be large enough for the destroying agency and  
17          the defendant or suspect to have an independent test  
18          performed on the substance for purposes of  
19          identification.

20          2. If a defendant or suspect is known to the destroying agency,  
21 the destroying agency shall give at least seven (7) days' written  
22 notice to the defendant, suspect or counsel for the defendant or  
23 suspect of:  
24

- 1           a.    the date, the time, and the place where the  
2                    photographing will take place and notice of the right  
3                    to attend the photographing, and  
4           b.    the right to obtain samples of the controlled  
5                    dangerous substance for independent testing and use as  
6                    evidence.

7           3.    The written notice shall also inform the defendant, suspect  
8 or counsel for the defendant or suspect that the destroying agency  
9 must be notified in writing within seven (7) days from receipt of  
10 the notice of the intent of the suspect or defendant to obtain  
11 random samples and make arrangements for the taking of samples. The  
12 samples for the defendant or suspect must be taken by a person  
13 licensed by the Drug Enforcement Administration. If the defendant  
14 or counsel for the defendant fails to notify the destroying agency  
15 in writing of an intent to obtain samples and fails to make  
16 arrangements for the taking of samples, a sample taken pursuant to  
17 subparagraph d of paragraph 1 of this subsection shall be made  
18 available upon request of the defendant or suspect.

19           The representative samples, the photographs, the reports, and  
20 the records made under this section and properly identified shall be  
21 admissible in any court or administrative proceeding for any  
22 purposes for which the seized substance itself would have been  
23 admissible.

1 C. All other property not otherwise provided for in the Uniform  
2 Controlled Dangerous Substances Act which has come into the  
3 possession of the Oklahoma State Bureau of Narcotics and Dangerous  
4 Drugs Control, the Department of Public Safety, the Oklahoma State  
5 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement  
6 Commission, the Department of Corrections, the Office of the  
7 Attorney General, or a district attorney may be disposed of by order  
8 of the district court when no longer needed in connection with any  
9 litigation. If the owner of the property is unknown to the agency  
10 or district attorney, the agency or district attorney shall hold the  
11 property for at least six (6) months prior to filing a petition for  
12 disposal with the district court except for laboratory equipment  
13 which may be forfeited when no longer needed in connection with  
14 litigation, unless the property is perishable. The Director or  
15 Commissioner of the agency, the Attorney General, or district  
16 attorney shall file a petition in the district court of Oklahoma  
17 County or in the case of a district attorney, the petition shall be  
18 filed in a county within the jurisdiction of the district attorney  
19 requesting the authority to:

20 1. Conduct a sale of the property at a public auction or use an  
21 Internet auction, which may include online bidding; or

22 2. Convert title of the property to the Oklahoma State Bureau  
23 of Narcotics and Dangerous Drugs Control, the Department of Public  
24 Safety, the Oklahoma State Bureau of Investigation, the Alcoholic

1 Beverage Laws Enforcement Commission, the Department of Corrections,  
2 the Office of the Attorney General, or to the district attorney's  
3 office for the purposes provided for in subsection J, K or L of this  
4 section.

5 The Director, Commissioner, Attorney General or district  
6 attorney shall attach to the petition:

- 7 a. a list describing the property, including all  
8 identifying numbers and marks, if any,
- 9 b. the date the property came into the possession of the  
10 agency or district attorney, and
- 11 c. the name and address of the owner, if known.

12 For any item having an apparent value in excess of One Hundred  
13 Dollars (\$100.00), but less than Five Hundred Dollars (\$500.00), the  
14 notice of the hearing of the petition for the sale of the property,  
15 except laboratory equipment used in the processing, manufacturing or  
16 compounding of controlled dangerous substances in violation of the  
17 provisions of the Uniform Controlled Dangerous Substances Act, shall  
18 be given to every known owner, as set forth in the petition, by  
19 first-class mail to the last-known address of the owner at least ten  
20 (10) days prior to the date of the hearing. An affidavit of notice  
21 being sent shall be filed with the court by a representative of the  
22 agency, the Director or Commissioner of the agency, the Attorney  
23 General or district attorney. For items in excess of Five Hundred  
24 Dollars (\$500.00), a notice of the hearing of the petition for the



1 sale of ~~said~~ such property shall be delivered to every known owner  
2 as set forth in the petition by certified mail. Notice of a hearing  
3 on a petition for forfeiture or sale of laboratory equipment used in  
4 the processing, manufacturing, or compounding of controlled  
5 dangerous substances in violation of the Uniform Controlled  
6 Dangerous Substances Act shall not be required.

7 The notice shall contain a brief description of the property,  
8 and the location and date of the hearing. In addition, notice of  
9 the hearing shall be posted in three public places in the county,  
10 one such place being the county courthouse at the regular place  
11 assigned for the posting of legal notices. At the hearing, if no  
12 owner appears and establishes ownership of the property, the court  
13 may enter an order authorizing the Director, Commissioner, Attorney  
14 General, or district attorney to donate the property pursuant to  
15 subsection J, K or L of this section, to sell the property at a  
16 public auction, including an Internet auction, which may include  
17 online bidding, to the highest bidder, or to convert title of the  
18 property to the Oklahoma State Bureau of Narcotics and Dangerous  
19 Drugs Control, the Department of Public Safety, the Oklahoma State  
20 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement  
21 Commission, the Department of Corrections, or the Office of the  
22 Attorney General for the purposes provided for in subsection J, K or  
23 L of this section after at least ten (10) days of notice ~~has~~ have  
24 been given by publication in one issue of a legal newspaper of the

1 county. If the property is offered for sale at public auction,  
2 including an Internet auction, and no bid is received that exceeds  
3 fifty percent (50%) of the value of the property, such value to be  
4 announced prior to the sale, the Director, Commissioner, Attorney  
5 General, or district attorney may refuse to sell the item pursuant  
6 to any bid received. The Director, Commissioner, Attorney General,  
7 or district attorney shall make a return of the sale and, when  
8 confirmed by the court, the order confirming the sale shall vest in  
9 the purchaser title to the property so purchased.

10 D. The money received from the sale of property by the Oklahoma  
11 State Bureau of Narcotics and Dangerous Drugs Control shall be used  
12 for general drug enforcement purposes. These funds shall be  
13 transferred to the Bureau of Narcotics Revolving Fund established  
14 pursuant to Section 2-107 of this title or in the case of a district  
15 attorney, the revolving fund provided for in paragraph 3 of  
16 subsection L of Section 2-506 of this title.

17 E. At the request of the Department of Public Safety, the  
18 district attorney or a designee of the district attorney may conduct  
19 any forfeiture proceedings as described in Section 2-503 of this  
20 title on any property subject to forfeiture as described in  
21 subsection A, B or C of Section 2-503 of this title. The money  
22 received from the sale of property by the Department of Public  
23 Safety shall be deposited in the Department of Public Safety  
24

1 Restricted Revolving Fund and shall be expended for law enforcement  
2 purposes.

3 F. The money received from the sale of property by the  
4 Alcoholic Beverage Laws Enforcement Commission shall be deposited in  
5 the General Revenue Fund of the state.

6 G. The money received from the sale of property from the  
7 Oklahoma State Bureau of Investigation shall be deposited in the  
8 OSBI Revolving Fund and shall be expended for law enforcement  
9 purposes.

10 H. The Director of the Department of Corrections shall make a  
11 return of the sale and when confirmed by the court, the order  
12 confirming the sale shall vest in the purchaser title to the  
13 property so purchased. Twenty-five percent (25%) of the money  
14 received from the sale shall be disbursed to a revolving fund in the  
15 office of the county treasurer of the county wherein the property  
16 was seized, ~~said~~ such fund to be used as a revolving fund solely for  
17 enforcement of controlled dangerous substances laws, drug abuse  
18 prevention and drug abuse education. The remaining seventy-five  
19 percent (75%) shall be deposited in the Department of Corrections  
20 Revolving Fund to be expended for equipment for probation and parole  
21 officers and correctional officers.

22 I. The money received from the sale of property from the Office  
23 of the Attorney General shall be deposited in the Attorney ~~General~~  
24 General's Law Enforcement Revolving Fund and shall be expended for

1 law enforcement purposes. The Office of the Attorney General may  
2 enter into agreements with municipal, county or state agencies to  
3 return to such an agency a percentage of proceeds of the sale of any  
4 property seized by the agency and forfeited under the provisions of  
5 this section.

6 J. Any property, including but not limited to uncontaminated  
7 laboratory equipment used in the processing, manufacturing or  
8 compounding of controlled dangerous substances in violation of the  
9 provisions of the Uniform Controlled Dangerous Substances Act, upon  
10 a court order, may be donated for classroom or laboratory use by the  
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,  
12 Department of Public Safety, district attorney, the Alcoholic  
13 Beverage Laws Enforcement Commission, the Department of Corrections,  
14 or the Office of the Attorney General to any public secondary school  
15 or technology center school in this state or any institution of  
16 higher education within The Oklahoma State System of Higher  
17 Education.

18 K. Any vehicle or firearm which has come into the possession  
19 and title vested in the Oklahoma State Bureau of Narcotics and  
20 Dangerous Drugs Control, the Department of Public Safety, the  
21 Oklahoma State Bureau of Investigation, the Office of the Attorney  
22 General, or a district attorney, may be transferred, donated or  
23 offered for lease to any sheriff's office, tribal law enforcement  
24 agency, campus police department pursuant to the provisions of the

1 Oklahoma Campus Security Act, or police department in this state on  
2 an annual basis to assist with the enforcement of the provisions of  
3 the Uniform Controlled Dangerous Substances Act. Each agency shall  
4 promulgate rules, regulations and procedures for leasing vehicles  
5 and firearms. No fully automatic weapons will be subject to the  
6 leasing agreement. All firearms leased may be utilized only by  
7 ~~C.L.E.E.T.-certified~~ CLEET-certified officers who have received  
8 training in the type and class of weapon leased. Every lessee shall  
9 be required to submit an annual report to the leasing agency stating  
10 the condition of all leased property. A lease agreement may be  
11 renewed annually at the option of the leasing agency. Upon  
12 termination of a lease agreement, the property shall be returned to  
13 the leasing agency for sale or other disposition. All funds derived  
14 from lease agreements or other disposition of property no longer  
15 useful to law enforcement shall be deposited in the agency's  
16 revolving fund, or in the case of the Department of Public Safety,  
17 the Department of Public Safety Restricted Revolving Fund, and shall  
18 be expended for law enforcement purposes.

19 L. Before disposing of any property pursuant to subsections C  
20 through I of this section, the Oklahoma State Bureau of Narcotics  
21 and Dangerous Drugs Control, the Department of Public Safety, the  
22 Alcoholic Beverage Laws Enforcement Commission, the Oklahoma State  
23 Bureau of Investigation, the Department of Corrections, the Office  
24 of the Attorney General, or a district attorney may transfer or

1 donate the property to another state agency, tribal law enforcement  
2 agency, or school district for use upon request. In addition to the  
3 provisions of this section, the Oklahoma State Bureau of Narcotics  
4 and Dangerous Drugs Control may transfer or donate property for any  
5 purpose pursuant to Section 2-106.2 of this title. The agencies and  
6 any district attorney that are parties to any transfer of property  
7 pursuant to this subsection shall enter into written agreements to  
8 carry out any such transfer of property. Any such agreement may  
9 also provide for the granting of title to any property being  
10 transferred as the parties deem appropriate. If the transfer of  
11 property is to a school district, a written agreement shall be  
12 entered into with the superintendent of the school district. No  
13 weapons may be transferred to a school district except as provided  
14 for in subsection K of this section.

15 SECTION 4. This act shall become effective November 1, 2024.

16 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY  
February 8, 2024 - DO PASS AS AMENDED  
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