

An Act

ENROLLED SENATE
BILL NO. 398

By: Jech of the Senate

and

Turner of the House

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 2021, Section 2-305, as last amended by Section 5, Chapter 308, O.S.L. 2024 (63 O.S. Supp. 2024, Section 2-305), which relates to violations and administrative proceedings; clarifying certain order; modifying administrative procedures for certain order to show cause; limiting jurisdiction and venue for certain actions; providing for quashing or modification of certain subpoenas; updating statutory language; and declaring an emergency.

SUBJECT: Uniform Controlled Dangerous Substances Act

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-305, as last amended by Section 5, Chapter 308, O.S.L. 2024 (63 O.S. Supp. 2024, Section 2-305), is amended to read as follows:

Section 2-305. A. In addition to any other remedies provided ~~for~~ by law, the Director shall issue a written order to show cause to be served on the parties before annulling, conditioning, suspending or revoking any registration that the Director has reason to believe is operating inconsistent with any provision of Section 2-303 of this title, pursuant to Section 2-304 of this title or otherwise where there has been a violation of any federal law, any rule or regulation of the Drug Enforcement Administration, any provision of the Uniform Controlled Dangerous Substances Act, or any

rules or regulations of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

B. The written order to show cause shall state with specificity the nature of the violation or basis for the action. The Director may impose any disciplinary action authorized by the Uniform Controlled Dangerous Substances Act or rules of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control including, but not limited to, the assessment of monetary penalties.

C. ~~Any written order issued pursuant to the provisions of this section shall become a final order~~ All alleged violations shall be deemed admitted unless the registrant requests an administrative hearing in accordance with the rules and regulations promulgated by the Director within thirty (30) days of issuance of the order to show cause. Upon such request, the Director shall promptly ~~initiate administrative proceedings and serve formal~~ initiate administrative proceedings show cause hearing pursuant to Section 309 of Title 75 of the Oklahoma Statutes. If a registrant fails to request a hearing or fails to appear after requesting a hearing, the Director shall issue a final order of the matter by default. Nothing in this section shall be construed ~~so as~~ to require an individual proceeding for the denial of a new application for registration.

D. The Director may authorize the Deputy Director or the General Counsel of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to initiate any individual proceedings under this title. Nothing in this section shall be construed so as to delegate the authority of the Director to issue a final agency order of an individual proceeding adverse to a party. ~~If a party fails to request an administrative hearing in a timely manner, the written order as issued shall be deemed adopted by the Director as the final agency order concerning the matter without further action by the Director.~~

E. All proceedings shall be conducted in accordance with the Administrative Procedures Act and the rules and regulations of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, except where more specific provisions of the Uniform Controlled Dangerous Substances Act apply, without regard to any criminal prosecution or other proceeding. Jurisdiction and venue for any action related to a registration or an individual proceeding,

including any appeal thereof, shall solely exist in the district court of Oklahoma County.

1. Proceedings to refuse renewal, revoke, or suspend a registration shall not abate the existing registration which shall remain in effect pending the outcome of those administrative proceedings; provided, the registrant submits timely and sufficient renewal applications annually. This abatement shall not apply when the Director finds there is an imminent danger to the public health or safety requiring an immediate suspension.

2. The Director may delegate to an administrative hearing officer the authority to conduct hearings and recommend action for final agency orders in accordance with the rules and regulations of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

3. Any requested subpoena or subpoena duces tecum may be quashed or modified for grounds listed in Section 2004.1 of Title 12 of the Oklahoma Statutes or upon a finding from the Director or hearing officer that the information or testimony being sought is not both necessary and proper to adjudication of the issues identified in the order to show cause. Any subpoena or subpoena duces tecum may be quashed or modified over the objection of any party pursuant to the requirements of this paragraph.

F. The Director may issue an order immediately suspending a registration, without notice or a hearing, when he or she finds there is imminent danger to the public health or safety which warrants ~~this~~ such action. The suspension shall continue in effect until the conclusion of any administrative proceedings, including judicial review thereof, unless ~~sooner~~ withdrawn earlier by the Director or dissolved by a court of competent jurisdiction. The order shall state the existence of an emergency requiring action be taken that the Director deems necessary to meet the emergency. Such action may include, but is not limited to, ordering the registrant to immediately cease and desist operations. The order shall be effective immediately upon issuance. Any person to whom the order is directed shall comply immediately with the provisions of the order. The Director may assess a penalty not to exceed Ten Thousand Dollars (\$10,000.00) per day of noncompliance with the order. In assessing such a penalty, the Director shall consider the

seriousness of the violation and any efforts to comply with applicable requirements.

G. In lieu of or in addition to any other remedies available to the Director, if a finding is made that a registrant has committed any act in violation of federal law relating to any controlled substance, any provision of the Uniform Controlled Dangerous Substances Act, or any rules of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Director is hereby authorized to assess an administrative penalty not to exceed Five Thousand Dollars (\$5,000.00) per day for each such act. The provisions of this subsection shall not apply to violations of subsection G of Section 2-309D of this title. Nothing in this section shall be construed ~~so as~~ to permit the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to assess administrative fines for violations of the provisions of subsection G of Section 2-309D of this title.

H. If a ~~judge~~ court of competent jurisdiction finds probable cause that a registrant has possessed, transferred, sold, or offered for sale any controlled dangerous substance in violation of ~~this act~~ the Uniform Controlled Dangerous Substances Act, all controlled dangerous substances in Schedule I of Section 2-204 of this title and all controlled dangerous substances in Schedules II, III, IV, and V that are not in properly labeled containers in accordance with ~~this act then~~ the Uniform Controlled Dangerous Substances Act in the possession of the registrant shall be deemed contraband and shall be seized and summarily forfeited pursuant to Section 2-505 of this title. Samples shall be retained of all controlled dangerous substances seized in accordance with Section 2-508 of this title as required. The Director ~~is authorized to~~ may assess an eradication or destruction fine not to exceed Fifty Thousand Dollars (\$50,000.00) against the registrant.

I. Upon an annulment, revocation, or denial of a registration, the Director may prohibit the registrant or applicant from reapplying for registration for a period up to five (5) years following the date of the final order. The length of any prohibition shall not be used as grounds to contest the validity of the annulment, revocation, or denial of a registration.

SECTION 2. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 26th day of March, 2025.

Presiding Officer of the Senate

Passed the House of Representatives the 30th day of April, 2025.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____