

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1616

By: Derby

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5
6 AS INTRODUCED

7 An Act relating to Oklahoma Bureau of Narcotics and
8 Dangerous Drugs Control; amending 63 O.S. 2011,
9 Sections 2-103, as last amended by Section 70,
10 Chapter 15, O.S.L. 2013, 2-105 and 2-110, as amended
11 by Section 46, Chapter 259, O.S.L. 2012 (63 O.S.
12 Supp. 2014, Sections 2-103 and 2-110), which relate
13 to the Uniform Controlled Dangerous Substances Act;
14 authorizing retired commissioned employees to
15 purchase certain weapons; providing procedures for
16 transferring ownership; modifying certain reporting
17 requirement; authorizing use of state-owned vehicles
18 by certain employees; amending 63 O.S. 2011, Section
19 2-208, as amended by Section 3, Chapter 80, O.S.L.
20 2012 (63 O.S. Supp. 2014, Section 2-208), which
21 relates to Schedule III substances; deleting certain
22 substance from Schedule III; amending 63 O.S. 2011,
23 Section 2-315, which relates to the Anti-Drug
24 Diversion Act; modifying submission requirement for
destroying controlled dangerous substances; amending
63 O.S. 2011, Section 2-407, which relates to
penalties for certain violations; expanding scope of
certain prohibited act; and providing an effective
date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-103, as
last amended by Section 70, Chapter 15, O.S.L. 2013 (63 O.S. Supp.
2014, Section 2-103), is amended to read as follows:

1 Section 2-103. A. The Director shall be appointed by the
2 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
3 Commission. The Director of Narcotics and Dangerous Drugs Control
4 on January 1, 1984, shall be initially appointed as Director. The
5 succeeding Director shall, at the time of the appointment, have a
6 Bachelor's Degree from an accredited college or university and at
7 least five (5) years of experience in drug law enforcement. The
8 Director may appoint necessary assistants, agents, and other
9 personnel to perform the work of the office and may prescribe their
10 titles and duties and fix their compensation, other than the
11 salaries established in subsection A of Section 2-103a of this
12 title, pursuant to Merit System rules. The Director may appoint
13 employees to the positions of Chief of Law Enforcement Information
14 and Technology, Public Information/Education Officer, Training
15 Officer, Program Administrators, Grants Administrator, Criminal
16 Analysts, Legal Secretary, and Typist Clerk/Spanish
17 Transcriptionists. The positions shall be unclassified and exempt
18 from the rules and procedures of the Office of Management and
19 Enterprise Services, except leave regulations. The office of the
20 Director shall be located at a suitable place in Oklahoma City,
21 Oklahoma.

22 B. 1. Agents appointed by the Director shall have the powers
23 of peace officers generally; provided, the Director may appoint
24 special agents and reserve special agents, who shall be unclassified

1 employees of the state, to meet specific investigatory needs.

2 Special agents and reserve special agents shall not be required to
3 meet the age and educational requirements as specified in this
4 section.

5 2. Agents appointed on and after November 1, 1998, shall be at
6 least twenty-one (21) years of age and shall have a Bachelor's
7 Degree from an accredited college or university.

8 3. Each entering agent, with the exception of special agents,
9 shall be required to serve one (1) year in a probationary status as
10 a prerequisite to being placed on permanent status.

11 C. Agents appointed pursuant to the provisions of this section
12 shall have the responsibility of investigating alleged violations
13 and shall have the authority to arrest those suspected of having
14 violated the provisions of the Uniform Controlled Dangerous
15 Substances Act, as well as the crimes of money laundering and human
16 trafficking, as otherwise set forth by laws of this state.

17 D. The Director may appoint reserve special agents who shall
18 not be considered employees of the state and shall serve at the will
19 of the Director. Reserve special agents shall complete a minimum of
20 one hundred sixty (160) hours of training pursuant to Section 3311
21 of Title 70 of the Oklahoma Statutes and may not serve more than one
22 hundred forty (140) hours per calendar month. Upon completion of
23 training, reserve special agents appointed by the Director shall
24 have general peace officer powers and the authority to arrest those

1 suspected of having violated the provisions of the Uniform
2 Controlled Dangerous Substances Act. The agency may expend funds
3 related to training and special reserve agents may receive travel
4 expenses pursuant to the State Travel Reimbursement Act.

5 E. A commissioned employee of the Oklahoma State Bureau of
6 Narcotics and Dangerous Drugs Control shall be entitled to receive
7 upon retirement by reason of length of service, the continued
8 custody and possession of the sidearm and badge carried by such
9 employee immediately prior to retirement. In addition to the
10 sidearm and badge, the commissioned employee may purchase the rifle,
11 shotgun and additional service pistols issued to the commissioned
12 employee immediately prior to retirement. The cost of purchasing
13 the weapon shall be the replacement cost for a new weapon. Upon
14 payment of the replacement cost, the retired employee shall be
15 entitled to ownership of the weapon. Any records regarding the
16 ownership of each weapon transferred shall be modified to reflect
17 the transfer to the retired commissioned employee. Proceeds from
18 the purchase of the weapon shall be deposited in the Oklahoma Bureau
19 of Narcotics Revolving Fund.

20 F. A commissioned employee of the Bureau may be entitled to
21 receive, upon retirement by reason of disability, the continued
22 custody and possession of the sidearm and badge carried by such
23 employee immediately prior to retirement upon written approval of
24 the Director.

1 G. Custody and possession of the sidearm and badge of a
2 commissioned employee killed in the line of duty may be awarded by
3 the Director to the spouse or next of kin of the deceased employee.

4 H. Custody and possession of the sidearm and badge of a
5 commissioned employee who dies while employed at the Oklahoma State
6 Bureau of Narcotics and Dangerous Drugs Control may be awarded by
7 the Director to the spouse or next of kin of the deceased employee.

8 I. Any Director appointed on or after July 1, 2003, shall be
9 eligible to participate in either the Oklahoma Public Employees
10 Retirement System or in the Oklahoma Law Enforcement Retirement
11 System and shall make an irrevocable election in writing to
12 participate in one of the two retirement systems.

13 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-105, is
14 amended to read as follows:

15 Section 2-105. A. It shall be the duty of all departments,
16 officers, agencies, and employees of the state to cooperate with the
17 Director of the Oklahoma State Bureau of Narcotics and Dangerous
18 Drugs Control in carrying out the functions of the office. The
19 State Medical Examiner shall promptly report to the ~~office~~ offices
20 of the Director of the Oklahoma Bureau of Narcotics and Dangerous
21 Drugs Control, the Executive Director of the State Board of Medical
22 Licensure and Supervision and the Executive Director of the State
23 Board of Osteopathic Examiners all deaths occurring within the state
24

1 which were the result or probable result of abuse of a controlled
2 dangerous substance.

3 B. The Bureau shall be required to compile a yearly report of
4 all fatal and nonfatal drug overdoses for the State of Oklahoma.
5 All registrants, as defined in the Anti-Drug Diversion Act, shall
6 report any person appearing at a medical facility with a drug
7 overdose to the central repository as provided in the Anti-Drug
8 Diversion Act. The determination of a drug overdose shall be made
9 solely at the discretion of the treating medical professional based
10 on the education, experience and professional opinion of the medical
11 professional. This information shall be considered part of the
12 central repository pursuant to the Anti-Drug Diversion Act and shall
13 be confidential and not open to the public pursuant to the
14 provisions of Section 2-309D of this title.

15 SECTION 3. AMENDATORY 63 O.S. 2011, Section 2-110, as
16 amended by Section 46, Chapter 259, O.S.L. 2012 (63 O.S. Supp. 2014,
17 Section 2-110), is amended to read as follows:

18 Section 2-110. The Director of the Oklahoma State Bureau of
19 Narcotics and Dangerous Drugs Control may employ attorneys, who
20 shall be unclassified employees of the state, or contract with
21 attorneys, as needed. These attorneys may advise the Director, the
22 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
23 Commission and Bureau personnel on all legal matters and shall
24 appear for and represent the Director, the Commission and Bureau

1 personnel in all administrative hearings and all litigation or other
2 proceedings which may arise in the discharge of their duties. At
3 the request of the Oklahoma State Bureau of Narcotics and Dangerous
4 Drugs Control Commission, such attorney shall assist the district
5 attorney in prosecuting charges of violators of the Uniform
6 Controlled Dangerous Substances Act or any felony relating to or
7 arising from a violation of the Uniform Controlled Dangerous
8 Substances Act. Attorneys for the Bureau who have been certified by
9 the Council on Law Enforcement Education and Training to carry a
10 weapon or have been issued a handgun license pursuant to the
11 provisions of the Oklahoma Self-Defense Act shall be allowed to
12 carry weapons pursuant to paragraph 3 of subsection A of Section
13 1272 of Title 21 of the Oklahoma Statutes. Attorneys for the Bureau
14 may use state-owned vehicles to provide transportation between the
15 residence of the employee and the assigned place of employment and
16 between the residence of the employee and any location other than
17 the assigned place of employment to which the employee travels in
18 the performance of the official duty of the employee. These
19 attorneys, pursuant to this provision, shall not be considered
20 eligible to participate in the Oklahoma Law Enforcement Retirement
21 System. If a conflict of interest would be created by such attorney
22 representing the Director, the Commission or Bureau personnel,
23 additional counsel may be hired upon approval of the Oklahoma State
24 Bureau of Narcotics and Dangerous Drugs Control Commission.

1 SECTION 4. AMENDATORY 63 O.S. 2011, Section 2-208, as
2 amended by Section 3, Chapter 80, O.S.L. 2012 (63 O.S. Supp. 2014,
3 Section 2-208), is amended to read as follows:

4 Section 2-208. The controlled substances listed in this section
5 are included in Schedule III.

6 A. Unless listed in another schedule, any material, compound,
7 mixture, or preparation, which contains any quantity of the
8 following substances or any other substance having a potential for
9 abuse associated with a stimulant or depressant effect on the
10 central nervous system:

11 1. Any drug product containing gamma-hydroxybutyric acid,
12 including its salts, isomers, and salts of isomers, for which an
13 application has been approved under Section 505 of the Federal Food,
14 Drug, and Cosmetic Act;

15 2. Any material, compound, mixture, or preparation which
16 contains any quantity of the following hormonal substances or
17 steroids, including their salts, isomers, esters and salts of
18 isomers and esters, when the existence of these salts, isomers,
19 esters, and salts of isomers and esters is possible within the
20 specific chemical designation:

- 21 a. Boldenone,
- 22 b. Chlorotestosterone,
- 23 c. Clostebol,
- 24 d. Dehydrochlormethyltestosterone,

- 1 e. Dihydrotestosterone,
- 2 f. Drostanolone,
- 3 g. Ethylestrenol,
- 4 h. Fluoxymesterone,
- 5 i. Formebolone,
- 6 j. Mesterolone,
- 7 k. Methandienone,
- 8 l. Methandranone,
- 9 m. Methandriol,
- 10 n. Methandrostenolone,
- 11 o. Methenolone,
- 12 p. Methyltestosterone, except as provided in subsection E
- 13 of this section,
- 14 q. Mibolerone,
- 15 r. Nandrolone,
- 16 s. Norethandrolone,
- 17 t. Oxandrolone,
- 18 u. Oxymesterone,
- 19 v. Oxymetholone,
- 20 w. Stanolone,
- 21 x. Stanozolol,
- 22 y. Testolactone,
- 23 z. Testosterone, except as provided in subsection E of
- 24 this section, and

- 1 aa. Trenbolone;
- 2 3. Any substance which contains any quantity of a derivative of
- 3 barbituric acid, or any salt of a derivative of barbituric acid;
- 4 4. Benzphetamine and its salts;
- 5 5. Buprenorphine;
- 6 6. Butalbital/acetaminophen/caffeine;
- 7 7. Chlorhexadol;
- 8 8. Chlorphentermine and its salts;
- 9 9. Clortermine;
- 10 10. Glutethimide;
- 11 11. ~~Hydrocodone with another active ingredient;~~
- 12 ~~12.~~ Ketamine, its salts, isomers, and salts of isomers;
- 13 ~~13.~~ 12. Lysergic acid;
- 14 ~~14.~~ 13. Lysergic acid amide;
- 15 ~~15.~~ 14. Mazindol;
- 16 ~~16.~~ 15. Methyprylon;
- 17 ~~17.~~ 16. Phendimetrazine;
- 18 ~~18.~~ 17. Phenylacetone (P2P);
- 19 ~~19.~~ 18. Sulfondiethylmethane;
- 20 ~~20.~~ 19. Sulfonethylmethane;
- 21 ~~21.~~ 20. Sulfonmethane;
- 22 ~~22.~~ 21. Tetrahydrocannabinols;
- 23 ~~23.~~ 22. 1-Phencyclohexylamine; or
- 24 ~~24.~~ 23. 1-Piperidinocyclohexanecarbo nitrile (PCC).

1 Livestock implants as regulated by the Federal Food and Drug
2 Administration shall be exempt.

3 B. Nalorphine.

4 C. Unless listed in another schedule, any material, compound,
5 mixture, or preparation containing limited quantities of any of the
6 following narcotic drugs, or any salts thereof:

7 1. Not more than one and eight-tenths (1.8) grams of codeine or
8 any of its salts, per one hundred (100) milliliters or not more than
9 ninety (90) milligrams per dosage unit, with an equal or greater
10 quantity of an isoquinoline alkaloid of opium;

11 2. Not more than one and eight-tenths (1.8) grams of codeine or
12 any of its salts, per one hundred (100) milliliters or not more than
13 ninety (90) milligrams per dosage unit, with one or more active,
14 nonnarcotic ingredients in recognized therapeutic amounts;

15 3. Not more than one and eight-tenths (1.8) grams of
16 dihydrocodeine or any of its salts, per one hundred (100)
17 milliliters or not more than ninety (90) milligrams per dosage unit,
18 with one or more active, nonnarcotic ingredients in recognized
19 therapeutic amounts;

20 4. Not more than three hundred (300) milligrams of
21 ethylmorphine or any of its salts, per one hundred (100) milliliters
22 or not more than fifteen (15) milligrams per dosage unit, with one
23 or more ingredients in recognized therapeutic amounts;

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1 5. Not more than five hundred (500) milligrams of opium per one
2 hundred (100) milliliters or per one hundred (100) grams, or not
3 more than twenty-five (25) milligrams per dosage unit, with one or
4 more active, nonnarcotic ingredients in recognized therapeutic
5 amounts; or

6 6. Not more than fifty (50) milligrams of morphine or any of
7 its salts, per one hundred (100) milliliters or per one hundred
8 (100) grams with one or more active, nonnarcotic ingredients in
9 recognized therapeutic amounts.

10 D. The Board of Pharmacy may except by rule any compound,
11 mixture, or preparation containing any stimulant or depressant
12 substance listed in subsections A and B of this section from the
13 application of all or any part of the Uniform Controlled Dangerous
14 Substances Act if the compound, mixture, or preparation contains one
15 or more active medicinal ingredients not having a stimulant or
16 depressant effect on the central nervous system, and if the
17 admixtures are included therein in combinations, quantity,
18 proportion, or concentration that vitiate the potential for abuse of
19 the substances which have a stimulant or depressant effect on the
20 central nervous system.

21 E. The following hormonal substances or steroids are exempt
22 from classification as Schedule III controlled dangerous substances:

23 1. Estratest, containing 1.25 mg esterified estrogens and 2.5
24 mg methyltestosterone;

1 2. Estratest HS, containing 0.625 mg esterified estrogens and
2 1.25 mg methyltestosterone;

3 3. Premarin with Methyltestosterone, containing 1.25 mg
4 conjugated estrogens and 10.0 mg methyltestosterone;

5 4. Premarin with Methyltestosterone, containing 0.625 mg
6 conjugated estrogens and 5.0 mg methyltestosterone;

7 5. Testosterone Cypionate - Estrodiol Cypionate injection,
8 containing 50 mg/ml Testosterone Cypionate; and

9 6. Testosterone Enanthate - Estradiol Valerate injection,
10 containing 90 mg/ml Testosterone Enanthate and 4 mg/ml Estradiol
11 Valerate.

12 SECTION 5. AMENDATORY 63 O.S. 2011, Section 2-315, is
13 amended to read as follows:

14 Section 2-315. A. Except as otherwise provided by law, any
15 person required to obtain an annual registration pursuant to Section
16 2-302 of this title, or any group home, or residential care home as
17 defined by Section 1-820 of this title shall submit for destruction
18 all controlled dangerous substances which are out of date, which are
19 unwanted, unused or which are abandoned by their owner at their
20 facility due to death or other circumstances.

21 B. All controlled dangerous substances described in subsection
22 A of this section shall be submitted to the Oklahoma City laboratory
23 of the Oklahoma State Bureau of Investigation, along with all
24 required information on forms provided by the Oklahoma State Bureau

1 of Investigation, to the federal Drug Enforcement Administration, to
2 a duly registered reverse distributor, ~~or~~ to the original registered
3 supplier or their registered agent, to a duly registered retail
4 pharmacy, or to a hospital or clinic with an on-site pharmacy
5 pursuant to the rules set forth in Part 1317 of Title 21 of the Code
6 of Federal Regulations. When any such substance is transported by
7 private contract or common carrier or United States Postal Service
8 for the purpose of destruction, the sender shall require a receipt
9 from such private contract or common carrier or United States Postal
10 Service, and such receipt shall be retained as a permanent record by
11 the sender.

12 C. Controlled dangerous substances submitted to the Oklahoma
13 State Bureau of Investigation pursuant to the provisions of this
14 section shall be destroyed pursuant to the procedures provided in
15 subsection A of Section 2-508 of this title.

16 Controlled dangerous substances submitted to any distributors,
17 reverse distributors or their original registered suppliers pursuant
18 to the provisions of this section shall be destroyed by incineration
19 so as to make the substance absolutely unusable for human purposes.
20 An official record listing the property destroyed, the location of
21 destruction and disposal, and the name and title of the person
22 supervising the destruction and disposal shall be submitted to the
23 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and
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1 the federal Drug Enforcement Administration office located nearest
2 the destruction site.

3 D. The Office of the Chief Medical Examiner is hereby
4 authorized to perform on-site incineration of all controlled
5 dangerous substances which are obtained in the discharge of the
6 official duties of the Chief Medical Examiner. Any record relating
7 to destruction of a controlled dangerous substance shall be
8 maintained as required by the state or federal government and shall
9 be available for inspection by appropriate state or federal
10 government regulatory agencies.

11 E. This section shall constitute a part of the Uniform
12 Controlled Dangerous Substances Act.

13 SECTION 6. AMENDATORY 63 O.S. 2011, Section 2-407, is
14 amended to read as follows:

15 Section 2-407. A. No person shall obtain or attempt to obtain
16 any preparation excepted from the provisions of the Uniform
17 Controlled Dangerous Substances Act pursuant to Section 2-313 of
18 this title in a manner inconsistent with the provisions of paragraph
19 1 of subsection B of Section 2-313 of this title, or a controlled
20 dangerous substance or procure or attempt to procure the
21 administration of a controlled dangerous substance:

22 1. By fraud, deceit, misrepresentation, or subterfuge;

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1 2. By the forgery of, alteration of, adding any information to
2 or changing any information on a prescription or of any written
3 order;

4 3. By the concealment of a material fact; ~~or~~

5 4. By the use of a false name or the giving of a false address;
6 or

7 5. By knowingly failing to disclose the receipt of a controlled
8 dangerous substance or a prescription for a controlled dangerous
9 substance of the same or similar therapeutic use from another
10 practitioner within the previous thirty (30) days.

11 B. Except as authorized by this act, a person shall not
12 manufacture, create, deliver, or possess with intent to manufacture,
13 create, or deliver or possess a prescription form, an original
14 prescription form, or a counterfeit prescription form. This shall
15 not apply to the legitimate manufacture or delivery of prescription
16 forms, or a person acting as an authorized agent of the
17 practitioner.

18 C. Information communicated to a physician in an effort
19 unlawfully to procure a controlled dangerous substance, or
20 unlawfully to procure the administration of any such drug, shall not
21 be deemed a privileged communication.

22 D. Any person who violates this section is guilty of a felony
23 punishable by imprisonment for not more than ten (10) years, by a
24 fine of not more than Ten Thousand Dollars (\$10,000.00), or by both

1 such fine and imprisonment. A second or subsequent offense under
2 this section is a felony punishable by imprisonment for not less
3 than four (4) years nor more than twenty (20) years, by a fine of
4 not more than Twenty Thousand Dollars (\$20,000.00), or by both such
5 fine and imprisonment.

6 E. Convictions for second or subsequent violations of this
7 section shall not be subject to statutory provisions for suspended
8 sentences, deferred sentences, or probation.

9 F. Any person convicted of any offense described in this
10 section shall, in addition to any fine imposed, pay a special
11 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
12 deposited into the Trauma Care Assistance Revolving Fund created in
13 Section 1-2522 of this title.

14 SECTION 7. This act shall become effective November 1, 2015.

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