

1 ENGROSSED HOUSE
2 BILL NO. 2282

By: Echols of the House

3 and

4 Paxton of the Senate

5
6 An Act relating to public health and safety;
7 amending 63 O.S. 2021, Sections 2-304 and 2-305,
8 which relate to the Uniform Controlled Dangerous
9 Substances Act; providing for the annulment of
10 registrations; allowing for the impounding and
11 preserving of controlled dangerous substances upon
12 revocation of registration; requiring registrants
13 to maintain controlled dangerous substances not
14 subject to impoundment or revocation; declaring
15 controlled dangerous substances forfeited to the
16 state as waste and subject to destruction; deleting
17 authorization for assessing administrative
18 penalties; deleting exception and construing
19 provision; modifying and deleting procedures for
20 denying, suspending, or revoking registrations;
21 requiring the issuance and service of written
22 orders prior to annulling, conditioning,
23 suspending, or revoking registrations; requiring
24 specificity within written orders; authorizing the
use of disciplinary actions; stating procedures for
issuing written orders and initiating
administrative proceedings; providing construing
provisions; declaring circumstances when abatement
is inapplicable; providing for the delegation of
certain duties; authorizing the immediate
suspension of registrations; providing procedures
for suspensions; authorizing the assessment of
penalties for noncompliance; allowing registrants
to apply for a hearing; authorizing the assessment
of administrative penalties for certain violations;
deeming controlled dangerous substances as
contraband under certain circumstances; providing
for seizures and forfeitures; authorizing
assessment of eradication or destruction fine;
prohibiting registrants from reapplying for certain
period of time; amending 63 O.S. 2021, Section 2-
325, which relates to the Precursor Substances Act;

1 providing for the annulment of licenses or permits
2 under certain circumstances; increasing time limit
3 when ordering registrants to appear for show cause
4 hearings; providing construing provision; and
5 declaring an emergency.

6
7 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

8 SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-304, is
9 amended to read as follows:

10 Section 2-304. A. A registration, pursuant to Section 2-303 of
11 this title, to manufacture, distribute, dispense, prescribe,
12 administer or use for scientific purposes a controlled dangerous
13 substance shall be limited, conditioned, denied, suspended,
14 annulled, or revoked by the Director upon a finding that the
15 registrant:

16 1. Has materially falsified any application filed pursuant to
17 the Uniform Controlled Dangerous Substances Act or required by the
18 Uniform Controlled Dangerous Substances Act. It shall be unlawful
19 to knowingly and willfully:

20 a. make false statements, include false data or omit
21 material information on an application for a
22 registration with the Oklahoma State Bureau of
23 Narcotics and Dangerous Drugs Control, or
24

1 b. provide false data or omit material information in any
2 records or reports required by rule or law to be
3 created, maintained or submitted to the Bureau.

4 Any registrant or applicant for a registration or any official,
5 agent or employee of any registrant or applicant for a registration
6 who violates the provisions of this paragraph shall be guilty of a
7 misdemeanor and additionally subject to administrative action;

8 2. Has been found guilty of, entered a plea of guilty or
9 entered a plea of nolo contendere to a misdemeanor relating to any
10 substance defined herein as a controlled dangerous substance or any
11 felony under the laws of any state or the United States;

12 3. Has had his or her federal registration retired, suspended
13 or revoked by a competent federal authority and is no longer
14 authorized by federal law to manufacture, distribute, dispense,
15 prescribe, administer or use for scientific purposes controlled
16 dangerous substances;

17 4. Has failed to maintain effective controls against the
18 diversion of controlled dangerous substances to unauthorized persons
19 or entities;

20 5. Has prescribed, dispensed or administered a controlled
21 dangerous substance from schedules other than those specified in his
22 or her state or federal registration;

23 6. Has had a restriction, suspension, revocation, limitation,
24 condition or probation placed on his or her professional license or

1 certificate or practice as a result of a proceeding pursuant to the
2 general statutes;

3 7. Is abusing or, within the past five (5) years, has abused or
4 excessively used drugs or controlled dangerous substances;

5 8. Has prescribed, sold, administered or ordered any controlled
6 dangerous substance for an immediate family member, himself or
7 herself; provided that this shall not apply to a medical emergency
8 when no other doctor is available to respond to the emergency;

9 9. Has possessed, used, prescribed, dispensed or administered
10 drugs or controlled dangerous substances for other than legitimate
11 medical or scientific purposes or for purposes outside the normal
12 course of his or her professional practice;

13 10. Has been under the influence of alcohol or another
14 intoxicating substance which adversely affected the central nervous
15 system, vision, hearing or other sensory or motor functioning to
16 such degree the person was impaired during the performance of his or
17 her job; or

18 11. Has violated any federal law relating to any controlled
19 dangerous substances, any provision of the Uniform Controlled
20 Dangerous Substances Act or any rules of the Oklahoma State Bureau
21 of Narcotics and Dangerous Drugs Control.

22 B. In the event the Director suspends or revokes a registration
23 granted under Section 2-303 of this title, all controlled dangerous
24 substances owned or possessed by the registrant pursuant to such

1 registration at the time of ~~denial~~ revocation or suspension or the
2 effective date of the revocation order, as the case may be, may in
3 the discretion of the Director be impounded and preserved. All
4 controlled dangerous substances not impounded or preserved by the
5 Director shall be maintained by the registrant. No disposition,
6 purchase, distribution, sale, or transfer may be made of substances
7 ~~impounded and preserved~~ until the time for taking an appeal has
8 elapsed or until all appeals have been concluded unless a court,
9 upon application therefor, orders the sale of perishable substances
10 and the deposit of the proceeds of the sale with the court. Upon a
11 revocation order becoming final, all such controlled dangerous
12 substances shall be forfeited to the state or otherwise considered
13 waste and submitted to a licensed medical marijuana waste disposal
14 service for destruction pursuant to Section 430 of this title.

15 C. The Drug Enforcement Administration shall promptly be
16 notified of all orders suspending or revoking registration and all
17 forfeitures of controlled dangerous substances.

18 ~~D. In lieu of or in addition to any other remedies available to~~
19 ~~the Director, if a finding is made that a registrant has committed~~
20 ~~any act in violation of federal law relating to any controlled~~
21 ~~substance, any provision of the Uniform Controlled Dangerous~~
22 ~~Substances Act or any rules of the Oklahoma State Bureau of~~
23 ~~Narcotics and Dangerous Drugs Control, the Director is hereby~~
24 ~~authorized to assess an administrative penalty not to exceed Two~~

1 ~~Thousand Dollars (\$2,000.00) for each such act. The provisions of~~
2 ~~this subsection shall not apply to violations of subsection G of~~
3 ~~Section 2-309D of this title. Nothing in this section shall be~~
4 ~~construed so as to permit the Director of the State Bureau of~~
5 ~~Narcotics and Dangerous Drugs Control to assess administrative fines~~
6 ~~for violations of the provisions of subsection G of Section 2-309D~~
7 ~~of this title.~~

8 SECTION 2. AMENDATORY 63 O.S. 2021, Section 2-305, is
9 amended to read as follows:

10 Section 2-305. A. ~~Before denying~~ In addition to any other
11 remedies provided for by law, the Director shall issue a written
12 order to be served on the parties before annulling, conditioning,
13 suspending or revoking a any registration, refusing a renewal of
14 registration or taking administrative action on a nonregistrant
15 engaged in manufacturing, distributing, dispensing, prescribing,
16 administering or using for scientific purposes any controlled
17 dangerous substance within or into this state, that the Director
18 shall serve upon the applicant or registrant an order to show cause
19 why registration should not be denied, revoked or suspended or why
20 the renewal should not be refused. The order to show cause shall
21 contain a statement of the basis therefor and shall call upon the
22 applicant or registrant to appear before the appropriate person or
23 agency at a time and place within thirty (30) days after the date of
24 service of the order, but in the case of a denial or renewal of

1 ~~registration the show cause order shall be served within thirty (30)~~
2 ~~days before the expiration of the registration. These has reason to~~
3 ~~believe is operating inconsistent with any provision of Section 2-~~
4 ~~303 or 2-304 of this title or otherwise, where there has been a~~
5 ~~violation of any federal law, any rule or regulation of the Drug~~
6 ~~Enforcement Administration, any provision of the Uniform Controlled~~
7 ~~Dangerous Substances Act, or any rules or regulations of the~~
8 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The~~
9 ~~provisions of this subsection shall not apply to a violation of~~
10 ~~federal law regarding marijuana or any rule or regulation of the~~
11 ~~Drug Enforcement Administration regarding marijuana.~~

12 B. The written order shall state with specificity the nature of
13 the violation or basis for the action. The Director may impose any
14 disciplinary action authorized by the Uniform Controlled Dangerous
15 Substances Act or rules of the Bureau including, but not limited to,
16 the assessment of monetary penalties.

17 C. Any written order issued pursuant to the provisions of this
18 section shall become a final order unless the registrant requests an
19 administrative hearing in accordance with the rules and regulations
20 promulgated by the Director within thirty (30) days of issuance.
21 Upon such request, the Director shall promptly initiate
22 administrative proceedings and serve formal notice of said
23 proceedings pursuant to Section 309 of Title 75 of the Oklahoma
24 Statutes. Nothing in this section shall be construed so as to

1 require an individual proceeding for the denial of a new application
2 for registration.

3 D. The Director may authorize the Deputy Director or the
4 general counsel of the Bureau to initiate any individual proceedings
5 under this title. Nothing in this section shall be construed so as
6 to delegate the authority of the Director to issue a final agency
7 order adverse to a party.

8 E. 1. All proceedings shall be conducted in accordance with
9 the Administrative Procedures Act and the rules and regulations of
10 the Bureau without regard to any criminal prosecution or other
11 proceeding. Proceedings to refuse renewal ~~of,~~ revoke, or suspend a
12 registration shall not abate the existing registration which shall
13 remain in effect pending the outcome of the administrative ~~hearing~~
14 proceedings.

15 ~~B. The~~ This abatement shall not apply when the Director ~~shall~~
16 ~~suspend, without an order to show cause, any registration~~
17 ~~simultaneously with the institution of proceedings under Section 2-~~
18 ~~304 of this title, if he or she finds there is an imminent danger to~~
19 the public health or safety ~~which warrants this action. The~~
20 requiring an immediate suspension shall continue in effect until the
21 conclusion of the proceedings, including judicial review thereof,
22 unless sooner withdrawn by the Director or dissolved by a court of
23 competent jurisdiction.

1 2. The Director may delegate to an administrative hearing
2 officer the authority to conduct hearings and recommend action for
3 final agency orders in accordance with the rules and regulations of
4 the Bureau.

5 F. The Director may issue an order immediately suspending a
6 registration, without notice or a hearing, when he or she finds
7 there is imminent danger to the public health or safety which
8 warrants this action. The suspension shall continue in effect until
9 the conclusion of any administrative proceedings, including judicial
10 review thereof, unless sooner withdrawn by the Director or dissolved
11 by a court of competent jurisdiction. The order shall state the
12 existence of an emergency requiring action be taken that the
13 Director deems necessary to meet the emergency. Such action may
14 include, but is not limited to, ordering the registrant to
15 immediately cease and desist operations. The order shall be
16 effective immediately upon issuance. Any person to whom the order
17 is directed shall comply immediately with the provisions of the
18 order. The Director may assess a penalty not to exceed Ten Thousand
19 Dollars (\$10,000.00) per day of noncompliance with the order. In
20 assessing such a penalty, the Director shall consider the
21 seriousness of the violation and any efforts to comply with
22 applicable requirements. Upon application to the Director, the
23 registrant shall be offered a hearing within thirty (30) days of the
24 issuance of the order.

1 G. 1. In lieu of, or in addition to any other remedies
2 available to the Director, if a finding is made that a registrant
3 has committed any act in violation of federal law relating to any
4 controlled dangerous substance, any provision of the Uniform
5 Controlled Dangerous Substances Act, or any rules of the Bureau, the
6 Director is hereby authorized to assess an administrative penalty
7 not to exceed Five Thousand Dollars (\$5,000.00) per day for each
8 such act. The provisions of this subsection shall not apply to
9 violations of subsection G of Section 2-309D of this title. Nothing
10 in this section shall be construed so as to permit the Director of
11 the Bureau to assess administrative fines for violations of the
12 provisions of subsection G of Section 2-309D of this title.

13 2. If a judge of competent jurisdiction finds probable cause
14 that a registrant has possessed, transferred, sold, or offered for
15 sale any controlled dangerous substance in violation of the Uniform
16 Controlled Dangerous Substances Act, any controlled dangerous
17 substance in Schedule I of Section 2-204 of this title, and any
18 controlled dangerous substance in Schedules II, III, IV, and V that
19 is not in properly labeled containers in accordance with the Uniform
20 Controlled Dangerous Substances Act then in the possession of the
21 registrant, shall be deemed contraband and shall be seized and
22 summarily forfeited pursuant to Section 2-505 of this title.
23 Samples shall be retained of all controlled dangerous substances
24 seized in accordance with Section 2-508 of this title as required.

1 The Director is authorized to assess an eradication or destruction
2 fine not to exceed Fifty Thousand Dollars (\$50,000.00) against the
3 registrant.

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

10 SECTION 3. AMENDATORY 63 O.S. 2021, Section 2-325, is
11 amended to read as follows:

12 Section 2-325. A. A license or permit, obtained pursuant to
13 ~~Sections 5~~ Section 2-323 or ~~6~~ 2-324 of this ~~act~~ title, shall be
14 ~~denied~~ annulled, suspended, or revoked by the Director upon finding
15 that the licensee or permit holder has:

16 1. Materially falsified any application filed pursuant to this
17 act or required by this act;

18 2. Been convicted of a misdemeanor relating to any precursor
19 substance defined in Section 4 2-322 of this ~~act~~ title or any felony
20 under the laws of this state or the United States; or

21 3. Failed to maintain effective controls against the diversion
22 of said precursors to unauthorized persons or entities.

23 B. Before ~~denying~~ annulling, suspending, or revoking a license
24 or permit, the Director shall cause to be served upon the ~~applicant,~~

1 licensee, or permit holder an order to show cause why a license or a
2 permit should not be ~~denied~~ annulled, suspended, or revoked. The
3 order to show cause shall contain a statement of the basis therefor
4 and shall call upon the ~~applicant~~, licensee, or permit holder to
5 appear before the appropriate person or agency at the time and place
6 within ~~thirty (30)~~ sixty (60) days after the date of service of the
7 order. The proceedings shall be conducted in accordance with the
8 Administrative Procedures Act without regard to any criminal
9 prosecution or other proceeding. Nothing in this section shall be
10 construed so as to require an individual proceeding for the denial
11 of a new license or permit.

12 C. The Director shall suspend, without an order to show cause,
13 any license or permit simultaneously with the institution of
14 proceedings described in subsection B of this section if ~~he~~ the
15 Director finds there is imminent danger to the public health or
16 safety which warrants this action. The suspension shall continue in
17 effect until the conclusion of the proceedings, including judicial
18 review thereof, unless withdrawn by the Director or dissolved by a
19 court of competent jurisdiction.

20 SECTION 4. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
22 declared to exist, by reason whereof this act shall take effect and
23 be in full force from and after its passage and approval.

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1 Passed the House of Representatives the 21st day of March, 2023.

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3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2023.

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8 _____
9 Presiding Officer of the Senate