

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2282

By: Echols

4
5
6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 63 O.S. 2021, Sections 2-304 and 2-305, which relate
9 to the Uniform Controlled Dangerous Substances Act;
10 providing for the annulment of registrations;
11 allowing for the impounding and preserving of
12 controlled dangerous substances upon revocation of
13 registration; requiring registrants to maintain
14 controlled dangerous substances not subject to
15 impoundment or revocation; prohibiting the purchase,
16 distribution, sale, or transfer of controlled
17 dangerous substances until conclusion of appeals;
18 providing for the assessment of administrative
19 penalties; authorizing forfeiture of controlled
20 dangerous substances upon certain finding; providing
21 for the assessment of drug cleanup fines; increasing
22 time limit when ordering registrants to appear for
23 show cause hearings; providing construing provisions;
24 providing agents and inspectors the authority to
issue citations; stating contents of citations;
allowing certain personnel the ability to initiate
individual proceedings against registrants; amending
63 O.S. 2021, Section 2-325, which relates to the
Precursor Substances Act; providing for the annulment
of licenses or permits under certain circumstances;
increasing time limit when ordering registrants to
appear for show cause hearings; providing construing
provision; and declaring an emergency.

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

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

3 Section 2-304. A. A registration, pursuant to Section 2-303 of
4 this title, to manufacture, distribute, dispense, prescribe,
5 administer or use for scientific purposes a controlled dangerous
6 substance shall be limited, conditioned, denied, suspended,
7 annulled, or revoked by the Director upon a finding that the
8 registrant:

9 1. Has materially falsified any application filed pursuant to
10 the Uniform Controlled Dangerous Substances Act or required by the
11 Uniform Controlled Dangerous Substances Act. It shall be unlawful
12 to knowingly and willfully:

13 a. make false statements, include false data or omit
14 material information on an application for a
15 registration with the Oklahoma State Bureau of
16 Narcotics and Dangerous Drugs Control, or

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

20 Any registrant or applicant for a registration or any official,
21 agent or employee of any registrant or applicant for a registration
22 who violates the provisions of this paragraph shall be guilty of a
23 misdemeanor and additionally subject to administrative action;

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

5 3. Has had his or her federal registration retired, suspended
6 or revoked by a competent federal authority and is no longer
7 authorized by federal law to manufacture, distribute, dispense,
8 prescribe, administer or use for scientific purposes controlled
9 dangerous substances;

10 4. Has failed to maintain effective controls against the
11 diversion of controlled dangerous substances to unauthorized persons
12 or entities;

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

16 6. Has had a restriction, suspension, revocation, limitation,
17 condition or probation placed on his or her professional license or
18 certificate or practice as a result of a proceeding pursuant to the
19 general statutes;

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

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

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

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

12 11. Has violated any federal law relating to any controlled
13 dangerous substances, any provision of the Uniform Controlled
14 Dangerous Substances Act or any rules of the Oklahoma State Bureau
15 of Narcotics and Dangerous Drugs Control.

16 B. In the event the Director suspends or revokes a registration
17 granted under Section 2-303 of this title, all controlled dangerous
18 substances owned or possessed by the registrant pursuant to such
19 registration at the time of ~~denial~~ revocation or suspension or the
20 effective date of the revocation order, as the case may be, may in
21 the discretion of the Director be impounded and preserved. All
22 controlled dangerous substances not impounded or preserved by the
23 Director shall be maintained by the registrant. No disposition,
24 purchase, distribution, sale, or transfer may be made of substances

1 ~~impounded and preserved~~ until the time for taking an appeal has
2 elapsed or until all appeals have been concluded unless a court,
3 upon application therefor, orders the sale of perishable substances
4 and the deposit of the proceeds of the sale with the court. Upon a
5 revocation order becoming final, all such controlled dangerous
6 substances shall be forfeited to the state or otherwise considered
7 waste and submitted to a licensed medical marijuana waste disposal
8 service for destruction pursuant to Section 430 of this title.

9 C. The Drug Enforcement Administration shall promptly be
10 notified of all orders suspending or revoking registration and all
11 forfeitures of controlled dangerous substances.

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

1 of this title. Administrative penalties may be assessed per
2 individual transaction and incurred daily.

3 E. In addition to any other remedies available to the Director,
4 if a judge of competent jurisdiction finds probable cause that a
5 registrant has committed any act in violation of Oklahoma law
6 relating to any controlled dangerous substance, all controlled
7 dangerous substances possessed by the registrant shall be considered
8 contraband or hazardous material and shall be subject to forfeiture
9 under Section 2-505 or 2-506 of this title as applicable, and the
10 Director is hereby authorized to assess a drug cleanup fine not to
11 exceed Fifty Thousand Dollars (\$50,000.00). The drug cleanup fine
12 shall apply only to the registrant; provided, however, the Director
13 may refuse to authorize any new registration at the same location
14 until such fine is paid.

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

17 Section 2-305. A. Before ~~denying~~ annulling, suspending or
18 revoking a registration, refusing a renewal of registration or
19 taking administrative action on a nonregistrant engaged in
20 manufacturing, distributing, dispensing, prescribing, administering
21 or using for scientific purposes any controlled dangerous substance
22 within or into this state, the Director shall serve upon the
23 applicant or registrant an order to show cause why registration
24 should not be ~~denied~~ annulled, revoked or suspended or why the

1 renewal should not be refused. The order to show cause shall
2 contain a statement of the basis therefor and shall call upon the
3 ~~applicant or~~ registrant to appear before the appropriate person or
4 agency at a time and place within ~~thirty (30)~~ sixty (60) days after
5 the date of service of the order, ~~but in the case of a denial or~~
6 ~~renewal of registration the show cause order shall be served within~~
7 ~~thirty (30) days before the expiration of the registration.~~ These
8 proceedings shall be conducted in accordance with the Administrative
9 Procedures Act without regard to any criminal prosecution or other
10 proceeding. Proceedings to refuse renewal of registration shall not
11 abate the existing registration which shall remain in effect pending
12 the outcome of the administrative hearing. Nothing in this section
13 shall be construed so as to require an individual proceeding for the
14 denial of a new registration.

15 B. The Director shall suspend, without an order to show cause,
16 any registration simultaneously with the institution of proceedings
17 under Section 2-304 of this title, if he or she finds there is
18 imminent danger to the public health or safety which warrants this
19 action. The suspension shall continue in effect until the
20 conclusion of the proceedings, including judicial review thereof,
21 unless sooner withdrawn by the Director or dissolved by a court of
22 competent jurisdiction.

23 C. The Director is authorized to give agents and inspectors of
24 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control

1 authority to issue citations for violation of any rules of the
2 Bureau under subsection D of Section 2-304 of this title. Citations
3 shall contain a statement of the basis therefor and shall call upon
4 the registrant to appear before the appropriate person or agency at
5 a time and place no more than sixty (60) days after the date of
6 service of the citation.

7 D. The Director may authorize the deputy director, general
8 counsel, or other designee of the Bureau to initiate any individual
9 proceeding against a registrant; provided that, citations issued by
10 agents or inspectors are approved by the Director, deputy director,
11 general counsel, or other designee. Nothing in this section shall
12 be construed so as to delegate the authority of the Director to
13 issue a final agency order.

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

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

20 1. Materially falsified any application filed pursuant to this
21 act or required by this act;

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

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

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

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

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

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6 59-1-6087 GRS 12/28/22

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