

1 ENGROSSED SENATE
2 BILL NO. 398

By: Jech of the Senate

3 and

4 Turner of the House

5
6 An Act relating to the Uniform Controlled Dangerous
7 Substances Act; amending 63 O.S. 2021, Section 2-305,
8 as last amended by Section 5, Chapter 308, O.S.L.
9 2024 (63 O.S. Supp. 2024, Section 2-305), which
10 relates to violations and administrative proceedings;
11 clarifying certain order; modifying administrative
12 procedures for certain order to show cause; limiting
13 jurisdiction and venue for certain actions; providing
14 for quashing or modification of certain subpoenas;
15 updating statutory language; and declaring an
16 emergency.

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

18 SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-305, as
19 last amended by Section 5, Chapter 308, O.S.L. 2024 (63 O.S. Supp.
20 2024, Section 2-305), is amended to read as follows:

21 Section 2-305. A. In addition to any other remedies provided
22 ~~for~~ by law, the Director shall issue a written order to show cause
23 to be served on the parties before annulling, conditioning,
24 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

1 provision of the Uniform Controlled Dangerous Substances Act, or any
2 rules or regulations of the Oklahoma State Bureau of Narcotics and
3 Dangerous Drugs Control.

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

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

23 D. The Director may authorize the Deputy Director or the
24 General Counsel of the Oklahoma State Bureau of Narcotics and

1 Dangerous Drugs Control to initiate any individual proceedings under
2 this title. Nothing in this section shall be construed so as to
3 delegate the authority of the Director to issue a final agency order
4 of an individual proceeding adverse to a party. ~~If a party fails to~~
5 ~~request an administrative hearing in a timely manner, the written~~
6 ~~order as issued shall be deemed adopted by the Director as the final~~
7 ~~agency order concerning the matter without further action by the~~
8 Director.

9 E. All proceedings shall be conducted in accordance with the
10 Administrative Procedures Act and the rules and regulations of the
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
12 except where more specific provisions of the Uniform Controlled
13 Dangerous Substances Act apply, without regard to any criminal
14 prosecution or other proceeding. Jurisdiction and venue for any
15 action related to a registration or an individual proceeding,
16 including any appeal thereof, shall solely exist in the district
17 court of Oklahoma County.

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

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 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

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

13 F. The Director may issue an order immediately suspending a
14 registration, without notice or a hearing, when he or she finds
15 there is imminent danger to the public health or safety which
16 warrants ~~this~~ such action. The suspension shall continue in effect
17 until the conclusion of any administrative proceedings, including
18 judicial review thereof, unless ~~sooner~~ withdrawn earlier by the
19 Director or dissolved by a court of competent jurisdiction. The
20 order shall state the existence of an emergency requiring action be
21 taken that the Director deems necessary to meet the emergency. Such
22 action may include, but is not limited to, ordering the registrant
23 to immediately cease and desist operations. The order shall be
24 effective immediately upon issuance. Any person to whom the order

1 is directed shall comply immediately with the provisions of the
2 order. The Director may assess a penalty not to exceed Ten Thousand
3 Dollars (\$10,000.00) per day of noncompliance with the order. In
4 assessing such a penalty, the Director shall consider the
5 seriousness of the violation and any efforts to comply with
6 applicable requirements.

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

21 H. If a ~~judge~~ court of competent jurisdiction finds probable
22 cause that a registrant has possessed, transferred, sold, or offered
23 for sale any controlled dangerous substance in violation of ~~this act~~
24 the Uniform Controlled Dangerous Substances Act, all controlled

1 dangerous substances in Schedule I of Section 2-204 of this title
2 and all controlled dangerous substances in Schedules II, III, IV,
3 and V that are not in properly labeled containers in accordance with
4 ~~this act then~~ the Uniform Controlled Dangerous Substances Act in the
5 possession of the registrant shall be deemed contraband and shall be
6 seized and summarily forfeited pursuant to Section 2-505 of this
7 title. Samples shall be retained of all controlled dangerous
8 substances seized in accordance with Section 2-508 of this title as
9 required. The Director ~~is authorized to~~ may assess an eradication
10 or destruction fine not to exceed Fifty Thousand Dollars
11 (\$50,000.00) against the registrant.

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

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

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