

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 SENATE BILL 398

By: Jech

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6 AS INTRODUCED

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

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

19 SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-305, as
20 last amended by Section 5, Chapter 308, O.S.L. 2024 (63 O.S. Supp.
21 2024, Section 2-305), is amended to read as follows:

22 Section 2-305. A. In addition to any other remedies provided
23 ~~for~~ by law, the Director shall issue a written order to show cause
24 to be served on the parties before annulling, conditioning,
25 suspending or revoking any registration that the Director has reason
26 to believe is operating inconsistent with any provision of Section
27 2-303 of this title, pursuant to Section 2-304 of this title or

1 otherwise where there has been a violation of any federal law, any
2 rule or regulation of the Drug Enforcement Administration, any
3 provision of the Uniform Controlled Dangerous Substances Act, or any
4 rules or regulations of the Oklahoma State Bureau of Narcotics and
5 Dangerous Drugs Control.

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

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

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

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

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

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

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

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

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

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

23 H. If a ~~judge~~ court of competent jurisdiction finds probable
24 cause that a registrant has possessed, transferred, sold, or offered
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1 for sale any controlled dangerous substance in violation of ~~this act~~
2 this section and Sections 2-101, 2-110, 2-304, 2-322, 2-325, and 2-
3 406 of this title, all controlled dangerous substances in Schedule I
4 of Section 2-204 of this title and all controlled dangerous
5 substances in Schedules II, III, IV, and V that are not in properly
6 labeled containers in accordance with ~~this act~~ this section and
7 Sections 2-101, 2-110, 2-304, 2-322, 2-325, and 2-406 of this title
8 ~~then~~ in the possession of the registrant shall be deemed contraband
9 and shall be seized and summarily forfeited pursuant to Section 2-
10 505 of this title. Samples shall be retained of all controlled
11 dangerous substances seized in accordance with Section 2-508 of this
12 title as required. The Director ~~is authorized to~~ may assess an
13 eradication or destruction fine not to exceed Fifty Thousand Dollars
14 (\$50,000.00) against the registrant.

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

21 SECTION 2. This act shall become effective November 1, 2025.
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