

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1606

By: Enns

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5  
6 AS INTRODUCED

7 An Act relating to public health and safety; amending  
8 63 O.S. 2011, Sections 2-505 and 2-509, which relate  
9 to the forfeiture, destruction and eradication of  
10 controlled dangerous substances; updating statutory  
11 citations and agency designations; deleting specific  
herbicide application methods; requiring approval and  
12 registration of herbicides used for eradicating  
13 plants with the Oklahoma Department of Agriculture,  
14 Food, and Forestry; and providing an effective date.

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

16 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-505, is  
17 amended to read as follows:

18 Section 2-505. A. All controlled substances in Schedule I of  
19 Section ~~2-101 et seq.~~ 2-204 of this title and all controlled  
20 substances in Schedules II, III, IV, and V that are not in properly  
21 labeled containers in accordance with this act that are possessed,  
22 transferred, sold, or offered for sale in violation of this act are  
deemed contraband and shall be seized and summarily forfeited.

23 B. All hazardous materials and all property contaminated with  
24 hazardous materials described in paragraph 2 of subsection A of

1 Section 2-503 of this title, used or intended to be used by persons  
2 to unlawfully manufacture or attempt to manufacture any controlled  
3 dangerous substance, shall be summarily forfeited to the state and  
4 submitted to the Oklahoma State Bureau of Investigation for prompt  
5 destruction in accordance with state and federal laws.

6 C. Species of plants from which controlled substances in  
7 Schedules I or II of the Uniform Controlled Dangerous Substances  
8 Act, ~~Section 2-101 et seq. of this title,~~ may be derived which have  
9 been planted or cultivated in violation of the Uniform Controlled  
10 Dangerous Substances Act, or of which the owners or cultivators are  
11 unknown, or which are wild growths, may be seized by peace officers,  
12 summarily forfeited, and, in lieu of the eradication procedures  
13 contained in Section 2-509 of this title, promptly cut and burned  
14 where seized or destroyed by applications of herbicides approved for  
15 such purpose and registered for use in Oklahoma by the Oklahoma  
16 Department of Agriculture, Food, and Forestry. ~~Spraying shall be~~  
17 ~~limited to the chemical glyphosate and shall be applied directly to~~  
18 ~~the plants by hand spraying from portable ground-based spray units~~  
19 ~~or by using equipment affixed to rotary-wing aircraft. Any~~  
20 ~~application of glyphosate using rotary-wing aircraft shall employ~~  
21 ~~equipment and methods capable of spot spraying and under no~~  
22 ~~circumstances shall broadcast or other mass spraying methods be~~  
23 ~~employed.~~ The Oklahoma State Bureau of Narcotics and Dangerous  
24 Drugs Control shall ~~cooperate with the Oklahoma Department of~~

1 ~~Agriculture~~ to ensure that persons spraying the plants are trained  
2 in ~~its~~ the appropriate use of the herbicide and any safety and  
3 protection issues pursuant to the requirements of the Oklahoma  
4 Department of Agriculture, Food, and Forestry.

5 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-509, is  
6 amended to read as follows:

7 Section 2-509. A. All species of plants from which controlled  
8 dangerous substances in Schedules I and II may be derived are hereby  
9 declared inimical to health and welfare of the public, and the  
10 intent of the Legislature is to control and eradicate these species  
11 of the plants in the State of Oklahoma.

12 B. It shall be unlawful for any person to cultivate or produce,  
13 or to knowingly permit the cultivation, production, or wild growing  
14 of any species of such plants, on any lands owned or controlled by  
15 such person, and it is hereby declared the duty of every such person  
16 to destroy all such plants found growing on lands owned or  
17 controlled by ~~him~~ the person.

18 C. 1. Whenever any peace officer of the state shall receive  
19 information that any species of any such plants has been found  
20 growing on any private lands in the State of Oklahoma, ~~he~~ the peace  
21 officer shall notify the sheriff and county commissioners of the  
22 county wherein such plants are found growing. Within five (5) days  
23 of receipt of such notice, the county commissioners shall notify the  
24 owner or person in possession of such lands that such plants have

1 | been found growing on the said lands and that the same must be  
2 | destroyed or eradicated within fifteen (15) days. When the fifteen  
3 | (15) days have elapsed, the reporting peace officer shall cause an  
4 | investigation to be made of the aforesaid lands, and if any such  
5 | plants be found growing thereon, the county commissioners shall  
6 | cause the same to be destroyed or eradicated by either cutting and  
7 | burning or by applications of herbicides approved for such purpose  
8 | and registered for use in Oklahoma by the Oklahoma Department of  
9 | Agriculture, Food, and Forestry in accordance with Section 2-505 of  
10 | this title.

11 |       2. Whenever any such plants are destroyed or eradicated by  
12 | order of the county commissioners as provided herein, the cost of  
13 | the same shall, if the work or labor be furnished by the county  
14 | commissioners, be taxed against the lands whereon the work was  
15 | performed, and shall be a lien upon such land in all manner and  
16 | respects as a lien of judgment, if the owner is charged with a  
17 | violation of subsection B of this section. If the violation of  
18 | subsection B of this section is by a person other than the owner of  
19 | the land, without the knowledge of the owner, the costs shall be  
20 | paid by the initiating law enforcement agency.

21 |       D. Knowingly violating the provisions of subsection B or  
22 | subsection H of this section is hereby declared, as to the owner, or  
23 | person in possession of such lands, to be a felony and upon  
24 | conviction punishable as such by a fine not to exceed Fifty Thousand

1 Dollars (\$50,000.00) and imprisonment in the custody of the  
2 Department of Corrections for not less than two (2) years nor more  
3 than life. The fine provided for in this subsection shall be in  
4 addition to other punishments provided by law and shall not be in  
5 lieu of other punishment. Any person convicted of a second or  
6 subsequent violation of subsection B or subsection H of this section  
7 is, upon conviction, punishable by a term of imprisonment twice that  
8 otherwise authorized and by twice the fine otherwise authorized.  
9 Any sentence shall not be subject to statutory provisions for  
10 suspended sentences, deferred sentences, or probation, except when  
11 the conviction is for a first offense.

12 E. It shall be the duty of any peace officer of the State of  
13 Oklahoma who receives information of such plants growing in the  
14 State of Oklahoma, to make notice, in writing, to the Oklahoma State  
15 Bureau of Narcotics and Dangerous Drugs Control and the future  
16 destruction or eradication of the annual growth of such plants shall  
17 be supervised by the Oklahoma State Bureau of Narcotics and  
18 Dangerous Drugs Control. Any destruction or eradication of the  
19 annual growth of such plants supervised by the Bureau shall be by  
20 cutting and burning the same or by destruction and eradication  
21 through applications of herbicides approved for such purpose and  
22 registered for use in Oklahoma by the Oklahoma Department of  
23 Agriculture, Food, and Forestry.

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1 F. Any application of herbicides authorized by this section  
2 shall be made pursuant to the provisions of Section 2-505 of this  
3 title.

4 G. In lieu of the eradication procedures provided for in  
5 subsections B and C of this section, all species of plants from  
6 which controlled dangerous substances in Schedules I and II of the  
7 Uniform Controlled Dangerous Substances Act may be derived, may be  
8 disposed of pursuant to the provisions of subsection C of Section 2-  
9 505 of this title.

10 H. Except as authorized by the Uniform Controlled Dangerous  
11 Substances Act, it shall be unlawful for any person to manufacture  
12 or attempt to manufacture any controlled dangerous substance by  
13 cooking, burning, or extracting and converting or attempting to  
14 extract and convert marihuana or marihuana oil into hashish, hashish  
15 oil or hashish powder.

16 SECTION 3. This act shall become effective November 1, 2017.

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18 56-1-6554 GRS 12/23/16

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