

An Act

ENROLLED HOUSE
BILL NO. 1606

By: Enns of the House

and

Pederson of the Senate

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

SUBJECT: Controlled dangerous substances

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

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

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

B. All hazardous materials and all property contaminated with hazardous materials described in paragraph 2 of subsection A of Section 2-503 of this title, used or intended to be used by persons to unlawfully manufacture or attempt to manufacture any controlled dangerous substance, shall be summarily forfeited to the state and

submitted to the Oklahoma State Bureau of Investigation for prompt destruction in accordance with state and federal laws.

C. Species of plants from which controlled substances in Schedules I or II of the Uniform Controlled Dangerous Substances Act, ~~Section 2-101 et seq. of this title,~~ may be derived which have been planted or cultivated in violation of the Uniform Controlled Dangerous Substances Act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized by peace officers, summarily forfeited, and, in lieu of the eradication procedures contained in Section 2-509 of this title, promptly cut and burned where seized or destroyed by applications of herbicides approved for such purpose and registered for use in Oklahoma by the Oklahoma Department of Agriculture, Food, and Forestry. ~~Spraying shall be limited to the chemical glyphosate and shall be applied directly to the plants by hand spraying from portable ground-based spray units or by using equipment affixed to rotary-wing aircraft. Any application of glyphosate using rotary-wing aircraft shall employ equipment and methods capable of spot spraying and under no circumstances shall broadcast or other mass spraying methods be employed.~~ The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall ~~cooperate with the Oklahoma Department of Agriculture to~~ ensure that persons spraying the plants are trained in its the appropriate use of the herbicide and any safety and protection issues pursuant to the requirements of the Oklahoma Department of Agriculture, Food, and Forestry.

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

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

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

C. 1. Whenever any peace officer of the state shall receive information that any species of any such plants has been found

growing on any private lands in the State of Oklahoma, ~~he~~ the peace officer shall notify the sheriff and county commissioners of the county wherein such plants are found growing. Within five (5) days of receipt of such notice, the county commissioners shall notify the owner or person in possession of such lands that such plants have been found growing on the said lands and that the same must be destroyed or eradicated within fifteen (15) days. When the fifteen (15) days have elapsed, the reporting peace officer shall cause an investigation to be made of the aforesaid lands, and if any such plants be found growing thereon, the county commissioners shall cause the same to be destroyed or eradicated by either cutting and burning or by applications of herbicides approved for such purpose and registered for use in Oklahoma by the Oklahoma Department of Agriculture, Food, and Forestry in accordance with Section 2-505 of this title.

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

D. Knowingly violating the provisions of subsection B or subsection H of this section is hereby declared, as to the owner, or person in possession of such lands, to be a felony and upon conviction punishable as such by a fine not to exceed Fifty Thousand Dollars (\$50,000.00) and imprisonment in the custody of the Department of Corrections for not less than two (2) years nor more than life. The fine provided for in this subsection shall be in addition to other punishments provided by law and shall not be in lieu of other punishment. Any person convicted of a second or subsequent violation of subsection B or subsection H of this section is, upon conviction, punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized. Any sentence shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation, except when the conviction is for a first offense.

E. It shall be the duty of any peace officer of the State of Oklahoma who receives information of such plants growing in the

State of Oklahoma, to make notice, in writing, to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the future destruction or eradication of the annual growth of such plants shall be supervised by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Any destruction or eradication of the annual growth of such plants supervised by the Bureau shall be by cutting and burning the same or by destruction and eradication through applications of herbicides approved for such purpose and registered for use in Oklahoma by the Oklahoma Department of Agriculture, Food, and Forestry.

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

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

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

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

Passed the House of Representatives the 22nd day of February, 2017.

Presiding Officer of the House
of Representatives

Passed the Senate the 10th day of April, 2017.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____