

An Act

ENROLLED HOUSE
BILL NO. 2282

By: Echols of the House

and

Paxton of the Senate

An Act relating to public health and safety; amending 63 O.S. 2021, Sections 2-304 and 2-305, which relate to the Uniform Controlled Dangerous Substances Act; providing for the annulment of registrations; allowing for the impounding and preserving of controlled dangerous substances upon revocation of registration; requiring registrants to maintain controlled dangerous substances not subject to impoundment or revocation; declaring controlled dangerous substances forfeited to the state as waste and subject to destruction; deleting authorization for assessing administrative penalties; deleting exception and construing provision; modifying and deleting procedures for denying, suspending, or revoking registrations; requiring the issuance and service of written orders prior to annulling, conditioning, suspending, or revoking registrations; requiring specificity within written orders; authorizing the use of disciplinary actions; stating procedures for issuing written orders and initiating administrative proceedings; providing construing provisions; declaring circumstances when abatement is inapplicable; providing for the delegation of certain duties; authorizing the immediate suspension of registrations; providing procedures for suspensions; authorizing the assessment of penalties for noncompliance; allowing registrants to apply for a hearing; authorizing the assessment of administrative penalties for certain violations; deeming controlled dangerous substances as contraband under certain circumstances; providing for seizures and forfeitures; authorizing assessment of eradication or destruction fine; prohibiting registrants from reapplying for certain

period of time; 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.

SUBJECT: Public health and Safety

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

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

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

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

- a. make false statements, include false data or omit material information on an application for a registration with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, or
- b. provide false data or omit material information in any records or reports required by rule or law to be created, maintained or submitted to the Bureau.

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

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

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

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

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

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

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

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

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

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

11. Has violated any federal law relating to any controlled dangerous substances, any provision of the Uniform Controlled

Dangerous Substances Act or any rules of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

B. In the event the Director suspends or revokes a registration granted under Section 2-303 of this title, all controlled dangerous substances owned or possessed by the registrant pursuant to such registration at the time of ~~denial~~ revocation or suspension or the effective date of the revocation order, as the case may be, may in the discretion of the Director be impounded and preserved. All controlled dangerous substances not impounded or preserved by the Director shall be maintained by the registrant. No disposition, purchase, distribution, sale, or transfer may be made of substances ~~impounded and preserved~~ until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled dangerous substances shall be forfeited to the state or otherwise considered waste and submitted to a licensed medical marijuana waste disposal service for destruction pursuant to Section 430 of this title.

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

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

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

Section 2-305. A. ~~Before denying~~ In addition to any other remedies provided for by law, the Director shall issue a written

order to be served on the parties before annulling, conditioning, suspending or revoking a any registration, refusing a renewal of registration or taking administrative action on a nonregistrant engaged in manufacturing, distributing, dispensing, prescribing, administering or using for scientific purposes any controlled dangerous substance within or into this state, that the Director shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked or suspended or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the appropriate person or agency at a time and place within thirty (30) days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served within thirty (30) days before the expiration of the registration. These has reason to believe is operating inconsistent with any provision of Section 2-303 or 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 provision of the Uniform Controlled Dangerous Substances Act, or any rules or regulations of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The provisions of this subsection shall not apply to a violation of federal law regarding marijuana or any rule or regulation of the Drug Enforcement Administration regarding marijuana.

B. The written order shall state with specificity the nature of the violation or basis for the action. The Director may impose any disciplinary action authorized by the Uniform Controlled Dangerous Substances Act or rules of the Bureau including, but not limited to, the assessment of monetary penalties.

C. Any written order issued pursuant to the provisions of this section shall become a final order unless the registrant requests an administrative hearing in accordance with the rules and regulations promulgated by the Director within thirty (30) days of issuance. Upon such request, the Director shall promptly initiate administrative proceedings and serve formal notice of said proceedings pursuant to Section 309 of Title 75 of the Oklahoma Statutes. Nothing in this section shall be construed so as to require an individual proceeding for the denial of a new application for registration.

D. The Director may authorize the Deputy Director or the general counsel of the Bureau to initiate any individual proceedings under this title. Nothing in this section shall be construed so as

to delegate the authority of the Director to issue a final agency order adverse to a party.

E. 1. All proceedings shall be conducted in accordance with the Administrative Procedures Act and the rules and regulations of the Bureau without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of, revoke, or suspend a registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing proceedings.

~~B. The This abatement shall not apply when the Director shall suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under Section 2-304 of this title, if he or she finds there is an imminent danger to the public health or safety which warrants this action. The requiring an immediate suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the Director or dissolved by a court of competent jurisdiction.~~

2. The Director may delegate to an administrative hearing officer the authority to conduct hearings and recommend action for final agency orders in accordance with the rules and regulations of the Bureau.

F. The Director may issue an order immediately suspending a registration, without notice or a hearing, when he or she finds there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of any administrative proceedings, including judicial review thereof, unless sooner withdrawn by the Director or dissolved by a court of competent jurisdiction. The order shall state the existence of an emergency requiring action be taken that the Director deems necessary to meet the emergency. Such action may include, but is not limited to, ordering the registrant to immediately cease and desist operations. The order shall be effective immediately upon issuance. Any person to whom the order is directed shall comply immediately with the provisions of the order. The Director may assess a penalty not to exceed Ten Thousand Dollars (\$10,000.00) per day of noncompliance with the order. In assessing such a penalty, the Director shall consider the seriousness of the violation and any efforts to comply with applicable requirements. Upon application to the Director, the

registrant shall be offered a hearing within thirty (30) days of the issuance of the order.

G. 1. In lieu of, or in addition to any other remedies available to the Director, if a finding is made that a registrant has committed any act in violation of federal law relating to any controlled dangerous substance, any provision of the Uniform Controlled Dangerous Substances Act, or any rules of the Bureau, the Director is hereby authorized to assess an administrative penalty not to exceed Five Thousand Dollars (\$5,000.00) per day for each such act. The provisions of this subsection shall not apply to violations of subsection G of Section 2-309D of this title. Nothing in this section shall be construed so as to permit the Director of the Bureau to assess administrative fines for violations of the provisions of subsection G of Section 2-309D of this title.

2. If a judge of competent jurisdiction finds probable cause that a registrant has possessed, transferred, sold, or offered for sale any controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act, any controlled dangerous substance in Schedule I of Section 2-204 of this title, and any controlled dangerous substance in Schedules II, III, IV, and V that is not in properly labeled containers in accordance with the Uniform Controlled Dangerous Substances Act then in the possession of the registrant, shall be deemed contraband and shall be seized and summarily forfeited pursuant to Section 2-505 of this title. Samples shall be retained of all controlled dangerous substances seized in accordance with Section 2-508 of this title as required. The Director is authorized to assess an eradication or destruction fine not to exceed Fifty Thousand Dollars (\$50,000.00) against the registrant.

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

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

Section 2-325. A. A license or permit, obtained pursuant to ~~Sections 5~~ Section 2-323 or ~~6~~ 2-324 of this ~~act~~ title, shall be

~~denied~~ annulled, suspended, or revoked by the Director upon finding that the licensee or permit holder has:

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

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

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

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

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

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

Passed the House of Representatives the 21st day of March, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of April, 2023.

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: _____