

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2282

By: Echols

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7 COMMITTEE SUBSTITUTE

8 An Act relating to public health and safety; amending
9 63 O.S. 2021, Sections 2-304 and 2-305, which relate
10 to the Uniform Controlled Dangerous Substances Act;
11 providing for the annulment of registrations;
12 allowing for the impounding and preserving of
13 controlled dangerous substances upon revocation of
14 registration; requiring registrants to maintain
15 controlled dangerous substances not subject to
16 impoundment or revocation; declaring controlled
17 dangerous substances forfeited to the state as waste
18 and subject to destruction; deleting authorization
19 for assessing administrative penalties; deleting
20 exception and construing provision; modifying and
21 deleting procedures for denying, suspending, or
22 revoking registrations; requiring the issuance and
23 service of written orders prior to annulling,
24 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

1 reapplying for certain period of time; amending 63
2 O.S. 2021, Section 2-325, which relates to the
3 Precursor Substances Act; providing for the annulment
4 of licenses or permits under certain circumstances;
5 increasing time limit when ordering registrants to
6 appear for show cause hearings; providing construing
7 provision; and declaring an emergency.

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

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

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

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

- 21 a. make false statements, include false data or omit
22 material information on an application for a
23 registration with the Oklahoma State Bureau of
24 Narcotics and Dangerous Drugs Control, or

1 b. provide false data or omit material information in any
2 records or reports required by rule or law to be
3 created, maintained or submitted to the Bureau.

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

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

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

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

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

23 6. Has had a restriction, suspension, revocation, limitation,
24 condition or probation placed on his or her professional license or

1 certificate or practice as a result of a proceeding pursuant to the
2 general statutes;

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

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

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

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

18 11. Has violated any federal law relating to any controlled
19 dangerous substances, any provision of the Uniform Controlled
20 Dangerous Substances Act or any rules of the Oklahoma State Bureau
21 of Narcotics and Dangerous Drugs Control.

22 B. In the event the Director suspends or revokes a registration
23 granted under Section 2-303 of this title, all controlled dangerous
24 substances owned or possessed by the registrant pursuant to such

1 registration at the time of ~~denial~~ revocation or suspension or the
2 effective date of the revocation order, as the case may be, may in
3 the discretion of the Director be impounded and preserved. All
4 controlled dangerous substances not impounded or preserved by the
5 Director shall be maintained by the registrant. No disposition,
6 purchase, distribution, sale, or transfer may be made of substances
7 ~~impounded and preserved~~ until the time for taking an appeal has
8 elapsed or until all appeals have been concluded unless a court,
9 upon application therefor, orders the sale of perishable substances
10 and the deposit of the proceeds of the sale with the court. Upon a
11 revocation order becoming final, all such controlled dangerous
12 substances shall be forfeited to the state or otherwise considered
13 waste and submitted to a licensed medical marijuana waste disposal
14 service for destruction pursuant to Section 430 of this title.

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

18 ~~D. In lieu of or in addition to any other remedies available to~~
19 ~~the Director, if a finding is made that a registrant has committed~~
20 ~~any act in violation of federal law relating to any controlled~~
21 ~~substance, any provision of the Uniform Controlled Dangerous~~
22 ~~Substances Act or any rules of the Oklahoma State Bureau of~~
23 ~~Narcotics and Dangerous Drugs Control, the Director is hereby~~
24 ~~authorized to assess an administrative penalty not to exceed Two~~

1 ~~Thousand Dollars (\$2,000.00) for each such act. The provisions of~~
2 ~~this subsection shall not apply to violations of subsection G of~~
3 ~~Section 2-309D of this title. Nothing in this section shall be~~
4 ~~construed so as to permit the Director of the State Bureau of~~
5 ~~Narcotics and Dangerous Drugs Control to assess administrative fines~~
6 ~~for violations of the provisions of subsection G of Section 2-309D~~
7 ~~of this title.~~

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

10 Section 2-305. A. ~~Before denying~~ In addition to any other
11 remedies provided for by law, the Director shall issue a written
12 order to be served on the parties before annulling, conditioning,
13 suspending or revoking a any registration, refusing a renewal of
14 registration or taking administrative action on a nonregistrant
15 engaged in manufacturing, distributing, dispensing, prescribing,
16 administering or using for scientific purposes any controlled
17 dangerous substance within or into this state, that the Director
18 shall serve upon the applicant or registrant an order to show cause
19 why registration should not be denied, revoked or suspended or why
20 the renewal should not be refused. The order to show cause shall
21 contain a statement of the basis therefor and shall call upon the
22 applicant or registrant to appear before the appropriate person or
23 agency at a time and place within thirty (30) days after the date of
24 service of the order, but in the case of a denial or renewal of

1 ~~registration the show cause order shall be served within thirty (30)~~
2 ~~days before the expiration of the registration. These has reason to~~
3 ~~believe is operating inconsistent with any provision of Section 2-~~
4 ~~303 or 2-304 of this title or otherwise, where there has been a~~
5 ~~violation of any federal law, any rule or regulation of the Drug~~
6 ~~Enforcement Administration, any provision of the Uniform Controlled~~
7 ~~Dangerous Substances Act, or any rules or regulations of the~~
8 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.~~

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

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

1 D. The Director may authorize the Deputy Director or the
2 general counsel of the Bureau to initiate any individual proceedings
3 under this title. Nothing in this section shall be construed so as
4 to delegate the authority of the Director to issue a final agency
5 order adverse to a party.

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

13 ~~B. The~~ This abatement shall not apply when the Director ~~shall~~
14 ~~suspend, without an order to show cause, any registration~~
15 ~~simultaneously with the institution of proceedings under Section 2-~~
16 ~~304 of this title, if he or she finds there is an~~ imminent danger to
17 the public health or safety ~~which warrants this action. The~~
18 requiring an immediate suspension ~~shall continue in effect until the~~
19 ~~conclusion of the proceedings, including judicial review thereof,~~
20 ~~unless sooner withdrawn by the Director or dissolved by a court of~~
21 ~~competent jurisdiction.~~

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

3 F. The Director may issue an order immediately suspending a
4 registration, without notice or a hearing, when he or she finds
5 there is imminent danger to the public health or safety which
6 warrants this action. The suspension shall continue in effect until
7 the conclusion of any administrative proceedings, including judicial
8 review thereof, unless sooner withdrawn by the Director or dissolved
9 by a court of competent jurisdiction. The order shall state the
10 existence of an emergency requiring action be taken that the
11 Director deems necessary to meet the emergency. Such action may
12 include, but is not limited to, ordering the registrant to
13 immediately cease and desist operations. The order shall be
14 effective immediately upon issuance. Any person to whom the order
15 is directed shall comply immediately with the provisions of the
16 order. The Director may assess a penalty not to exceed Ten Thousand
17 Dollars (\$10,000.00) per day of noncompliance with the order. In
18 assessing such a penalty, the Director shall consider the
19 seriousness of the violation and any efforts to comply with
20 applicable requirements. Upon application to the Director, the
21 registrant shall be offered a hearing within thirty (30) days of the
22 issuance of the order.

23 G. 1. In lieu of, or in addition to any other remedies
24 available to the Director, if a finding is made that a registrant

1 has committed any act in violation of federal law relating to any
2 controlled dangerous substance, any provision of the Uniform
3 Controlled Dangerous Substances Act, or any rules of the Bureau, the
4 Director is hereby authorized to assess an administrative penalty
5 not to exceed Five Thousand Dollars (\$5,000.00) per day for each
6 such act. The provisions of this subsection shall not apply to
7 violations of subsection G of Section 2-309D of this title. Nothing
8 in this section shall be construed so as to permit the Director of
9 the Bureau to assess administrative fines for violations of the
10 provisions of subsection G of Section 2-309D of this title.

11 2. If a judge of competent jurisdiction finds probable cause
12 that a registrant has possessed, transferred, sold, or offered for
13 sale any controlled dangerous substance in violation of the Uniform
14 Controlled Dangerous Substances Act, any controlled dangerous
15 substance in Schedule I of Section 2-204 of this title, and any
16 controlled dangerous substance in Schedules II, III, IV, and V that
17 is not in properly labeled containers in accordance with the Uniform
18 Controlled Dangerous Substances Act then in the possession of the
19 registrant, shall be deemed contraband and shall be seized and
20 summarily forfeited pursuant to Section 2-505 of this title.

21 Samples shall be retained of all controlled dangerous substances
22 seized in accordance with Section 2-508 of this title as required.
23 The Director is authorized to assess an eradication or destruction
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1 fine not to exceed Fifty Thousand Dollars (\$50,000.00) against the
2 registrant.

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

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

11 Section 2-325. A. A license or permit, obtained pursuant to
12 ~~Sections 5~~ Section 2-323 or ~~6~~ 2-324 of this ~~act~~ title, shall be
13 ~~denied~~ annulled, suspended, or revoked by the Director upon finding
14 that the licensee or permit holder has:

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

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

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

22 B. Before ~~denying~~ annulling, suspending, or revoking a license
23 or permit, the Director shall cause to be served upon the ~~applicant,~~
24 licensee, or permit holder an order to show cause why a license or a

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

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

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

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