

1 **SENATE FLOOR VERSION**

2 April 10, 2023

3 ENGROSSED HOUSE
4 BILL NO. 2282

By: Echols of the House

and

Paxton of the Senate

5
6
7
8
9 An Act relating to public health and safety; amending
10 63 O.S. 2021, Sections 2-304 and 2-305, which relate
11 to the Uniform Controlled Dangerous Substances Act;
12 providing for the annulment of registrations;
13 allowing for the impounding and preserving of
14 controlled dangerous substances upon revocation of
15 registration; requiring registrants to maintain
16 controlled dangerous substances not subject to
17 impoundment or revocation; declaring controlled
18 dangerous substances forfeited to the state as waste
19 and subject to destruction; deleting authorization
20 for assessing administrative penalties; deleting
21 exception and construing provision; modifying and
22 deleting procedures for denying, suspending, or
23 revoking registrations; requiring the issuance and
24 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

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

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

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

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

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

22 a. make false statements, include false data or omit
23 material information on an application for a
24

1 registration with the Oklahoma State Bureau of
2 Narcotics and Dangerous Drugs Control, or

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

21 ~~D. In lieu of or in addition to any other remedies available to~~
22 ~~the Director, if a finding is made that a registrant has committed~~
23 ~~any act in violation of federal law relating to any controlled~~
24 ~~substance, any provision of the Uniform Controlled Dangerous~~

1 ~~Substances Act or any rules of the Oklahoma State Bureau of~~
2 ~~Narcotics and Dangerous Drugs Control, the Director is hereby~~
3 ~~authorized to assess an administrative penalty not to exceed Two~~
4 ~~Thousand Dollars (\$2,000.00) for each such act. The provisions of~~
5 ~~this subsection shall not apply to violations of subsection G of~~
6 ~~Section 2-309D of this title. Nothing in this section shall be~~
7 ~~construed so as to permit the Director of the State Bureau of~~
8 ~~Narcotics and Dangerous Drugs Control to assess administrative fines~~
9 ~~for violations of the provisions of subsection G of Section 2-309D~~
10 ~~of this title.~~

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

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

1 ~~applicant or registrant to appear before the appropriate person or~~
2 ~~agency at a time and place within thirty (30) days after the date of~~
3 ~~service of the order, but in the case of a denial or renewal of~~
4 ~~registration the show cause order shall be served within thirty (30)~~
5 ~~days before the expiration of the registration. These has reason to~~
6 ~~believe is operating inconsistent with any provision of Section 2-~~
7 ~~303 or 2-304 of this title or otherwise, where there has been a~~
8 ~~violation of any federal law, any rule or regulation of the Drug~~
9 ~~Enforcement Administration, any provision of the Uniform Controlled~~
10 ~~Dangerous Substances Act, or any rules or regulations of the~~
11 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The~~
12 ~~provisions of this subsection shall not apply to a violation of~~
13 ~~federal law regarding marijuana or any rule or regulation of the~~
14 ~~Drug Enforcement Administration regarding marijuana.~~

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

20 C. Any written order issued pursuant to the provisions of this
21 section shall become a final order unless the registrant requests an
22 administrative hearing in accordance with the rules and regulations
23 promulgated by the Director within thirty (30) days of issuance.
24 Upon such request, the Director shall promptly initiate

1 administrative proceedings and serve formal notice of said
2 proceedings pursuant to Section 309 of Title 75 of the Oklahoma
3 Statutes. Nothing in this section shall be construed so as to
4 require an individual proceeding for the denial of a new application
5 for registration.

6 D. The Director may authorize the Deputy Director or the
7 general counsel of the Bureau to initiate any individual proceedings
8 under this title. Nothing in this section shall be construed so as
9 to delegate the authority of the Director to issue a final agency
10 order adverse to a party.

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

18 ~~B. The This abatement shall not apply when the Director shall~~
19 ~~suspend, without an order to show cause, any registration~~
20 ~~simultaneously with the institution of proceedings under Section 2-~~
21 ~~304 of this title, if he or she finds there is an imminent danger to~~
22 ~~the public health or safety which warrants this action. The~~
23 ~~requiring an immediate suspension shall continue in effect until the~~
24 ~~conclusion of the proceedings, including judicial review thereof,~~

1 ~~unless sooner withdrawn by the Director or dissolved by a court of~~
2 ~~competent jurisdiction.~~

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 Bureau.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 SECTION 4. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
4 April 10, 2023 - DO PASS

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24