

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1874

By: Weaver

AS INTRODUCED

An Act relating to the public health and safety; amending 63 O.S. 2021, Sections 2-505, 2-507, and 2-508, which relate to the Uniform Controlled Dangerous Substances Act; authorizing destruction of certain substances by certain state entities; updating statutory language and references; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-505, is amended to read as follows:

Section 2-505. A. All controlled substances in Schedule I of Section 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~~ the Uniform Controlled Dangerous Substances Act that are possessed, transferred, sold, or offered for sale in violation of ~~this act~~ the Uniform Controlled Dangerous Substances Act are deemed contraband and shall be seized and summarily forfeited.

1 B. All hazardous materials and all property contaminated with
2 hazardous materials described in paragraph 2 of subsection A of
3 Section 2-503 of this title, used or intended to be used by persons
4 to unlawfully manufacture or attempt to manufacture any controlled
5 dangerous substance, shall be summarily forfeited to the state and
6 submitted to the Oklahoma State Bureau of Investigation (OSBI),
7 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
8 (OBN), the Oklahoma Highway Patrol (OHP), or any agency authorized
9 by such entities for prompt destruction in accordance with state and
10 federal laws.

11 C. Species of plants from which controlled substances in
12 Schedules I or II of the Uniform Controlled Dangerous Substances Act
13 may be derived which have been planted or cultivated in violation of
14 the Uniform Controlled Dangerous Substances Act, or of which the
15 owners or cultivators are unknown, or which are wild growths, may be
16 seized by peace officers, summarily forfeited and, in lieu of the
17 eradication procedures contained in Section 2-509 of this title,
18 promptly cut and burned where seized or destroyed by applications of
19 herbicides approved for such purpose and registered for use in
20 Oklahoma by the Oklahoma Department of Agriculture, Food, and
21 Forestry. The Oklahoma State Bureau of Narcotics and Dangerous
22 Drugs Control shall ensure that persons spraying the plants are
23 trained in the appropriate use of the herbicide and any safety and
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1 protection issues pursuant to the requirements of the Oklahoma
2 Department of Agriculture, Food, and Forestry.

3 SECTION 2. AMENDATORY 63 O.S. 2021, Section 2-507, is
4 amended to read as follows:

5 Section 2-507. Any peace officer of this state seizing any of
6 the property described in paragraphs 1 and 2 of subsection A of
7 Section 2-503 of this title shall cause a written inventory to be
8 made and maintain custody of the same until all legal actions have
9 been exhausted unless such property has been placed in lawful
10 custody of a court or state or federal law enforcement agency or
11 unless otherwise provided by law. After all legal actions have been
12 exhausted with respect to such property, the property shall be
13 surrendered by the court, law enforcement agency or person having
14 custody of the same to the Oklahoma State Bureau of Investigation
15 (OSBI), Oklahoma State Bureau of Narcotics and Dangerous Drugs
16 Control (OBN), the Oklahoma Highway Patrol (OHP), or any agency
17 authorized by such entities to be destroyed as provided in Section
18 2-508 of this title. The property shall be accompanied with a
19 written inventory on forms to be furnished by the Oklahoma State
20 Bureau of Investigation.

21 SECTION 3. AMENDATORY 63 O.S. 2021, Section 2-508, is
22 amended to read as follows:

23 Section 2-508. A. Except as otherwise provided, all property
24 described in paragraphs 1 and 2 of subsection A of Section 2-503 of

1 this title which is seized or surrendered pursuant to the provisions
2 of the Uniform Controlled Dangerous Substances Act shall be
3 destroyed. The destruction shall be done by or at the direction of
4 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
5 ~~(OSBND)~~ (OBN), who shall have the discretion prior to destruction
6 to preserve samples of the substance for testing. In any county
7 with a population of four hundred thousand (400,000) or more
8 according to the latest Federal Decennial Census, there shall be a
9 located site, approved by the ~~OSBND~~ OBN, for the destruction of the
10 property. Any such property submitted to the ~~OSBND~~ OBN which it
11 deems to be of use for investigative training, educational, or
12 analytical purposes may be retained by the ~~OSBND~~ OBN in lieu of
13 destruction.

14 B. 1. With respect to controlled dangerous substances seized
15 or surrendered pursuant to the provisions of the Uniform Controlled
16 Dangerous Substances Act, municipal police departments, sheriffs,
17 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
18 ~~Commission~~ (OBN), the Oklahoma Highway Patrol (OHP), and the
19 Oklahoma State Bureau of Investigation (OSBI), or any agency
20 authorized by such entities shall have the authority to destroy
21 seized controlled dangerous substances when the amount seized in a
22 single incident exceeds ten (10) pounds. The destroying agency
23 shall:

- a. photograph the seized substance with identifying case numbers or other means of identification,
- b. prepare a report describing the seized substance prior to the destruction,
- c. retain at least one (1) pound of the substance randomly selected from the seized substance for the purpose of evidence, and
- d. obtain and retain samples of the substance from enough containers, bales, bricks, or other units of substance seized to establish the presence of a weight of the substance necessary to establish a violation of the Trafficking in Illegal Drugs Act pursuant to subsection C of Section 2-415 of this title, if such a weight is present. If such weight is not present, samples of the substance from each container, bale, brick or other unit of substance seized shall be taken. Each sample taken pursuant to this section shall be large enough for the destroying agency and the defendant or suspect to have an independent test performed on the substance for purposes of identification.

2. If a defendant or suspect is known to the destroying agency, the destroying agency shall give at least seven (7) days' written

1 notice to the defendant, suspect or counsel for the defendant or
2 suspect of:

3 a. the date, the time, and the place where the
4 photographing will take place and notice of the right
5 to attend the photographing, and

6 b. the right to obtain samples of the controlled
7 dangerous substance for independent testing and use as
8 evidence.

9 3. The written notice shall also inform the defendant, suspect
10 or counsel for the defendant or suspect that the destroying agency
11 must be notified in writing within seven (7) days from receipt of
12 the notice of the intent of the suspect or defendant to obtain
13 random samples and make arrangements for the taking of samples. The
14 samples for the defendant or suspect must be taken by a person
15 licensed by the Drug Enforcement Administration. If the defendant
16 or counsel for the defendant fails to notify the destroying agency
17 in writing of an intent to obtain samples and fails to make
18 arrangements for the taking of samples, a sample taken pursuant to
19 subparagraph d of paragraph 1 of this subsection shall be made
20 available upon request of the defendant or suspect.

21 The representative samples, the photographs, the reports, and
22 the records made under this section and properly identified shall be
23 admissible in any court or administrative proceeding for any
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1 purposes for which the seized substance itself would have been
2 admissible.

3 C. All other property not otherwise provided for in the Uniform
4 Controlled Dangerous Substances Act which has come into the
5 possession of the Oklahoma State Bureau of Narcotics and Dangerous
6 Drugs Control, the Department of Public Safety, the Oklahoma State
7 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
8 Commission, the Department of Corrections, the Office of the
9 Attorney General, or a district attorney may be disposed of by order
10 of the district court when no longer needed in connection with any
11 litigation. If the owner of the property is unknown to the agency
12 or district attorney, the agency or district attorney shall hold the
13 property for at least six (6) months prior to filing a petition for
14 disposal with the district court except for laboratory equipment
15 which may be forfeited when no longer needed in connection with
16 litigation, unless the property is perishable. The Director or
17 Commissioner of the agency, the Attorney General, or district
18 attorney shall file a petition in the district court of Oklahoma
19 County or in the case of a district attorney, the petition shall be
20 filed in a county within the jurisdiction of the district attorney
21 requesting the authority to:

22 1. Conduct a sale of the property at a public auction or use an
23 Internet auction, which may include online bidding; or
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1 2. Convert title of the property to the Oklahoma State Bureau
2 of Narcotics and Dangerous Drugs Control, the Department of Public
3 Safety, the Oklahoma State Bureau of Investigation, the Alcoholic
4 Beverage Laws Enforcement Commission, the Department of Corrections,
5 the Office of the Attorney General, or to the district attorney's
6 office for the purposes provided for in subsection J, K or L of this
7 section.

8 The Director, Commissioner, Attorney General or district
9 attorney shall attach to the petition:

- 10 a. a list describing the property, including all
11 identifying numbers and marks, if any,
- 12 b. the date the property came into the possession of the
13 agency or district attorney, and
- 14 c. the name and address of the owner, if known.

15 For any item having an apparent value in excess of One Hundred
16 Dollars (\$100.00), but less than Five Hundred Dollars (\$500.00), the
17 notice of the hearing of the petition for the sale of the property,
18 except laboratory equipment used in the processing, manufacturing or
19 compounding of controlled dangerous substances in violation of the
20 provisions of the Uniform Controlled Dangerous Substances Act, shall
21 be given to every known owner, as set forth in the petition, by
22 first-class mail to the last-known address of the owner at least ten
23 (10) days prior to the date of the hearing. An affidavit of notice
24 being sent shall be filed with the court by a representative of the

1 agency, the Director or Commissioner of the agency, the Attorney
2 General or district attorney. For items in excess of Five Hundred
3 Dollars (\$500.00), a notice of the hearing of the petition for the
4 sale of ~~said~~ such property shall be delivered to every known owner
5 as set forth in the petition by certified mail. Notice of a hearing
6 on a petition for forfeiture or sale of laboratory equipment used in
7 the processing, manufacturing, or compounding of controlled
8 dangerous substances in violation of the Uniform Controlled
9 Dangerous Substances Act shall not be required.

10 The notice shall contain a brief description of the property,
11 and the location and date of the hearing. In addition, notice of
12 the hearing shall be posted in three public places in the county,
13 one such place being the county courthouse at the regular place
14 assigned for the posting of legal notices. At the hearing, if no
15 owner appears and establishes ownership of the property, the court
16 may enter an order authorizing the Director, Commissioner, Attorney
17 General, or district attorney to donate the property pursuant to
18 subsection J, K or L of this section, to sell the property at a
19 public auction, including an Internet auction, which may include
20 online bidding, to the highest bidder, or to convert title of the
21 property to the Oklahoma State Bureau of Narcotics and Dangerous
22 Drugs Control, the Department of Public Safety, the Oklahoma State
23 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
24 Commission, the Department of Corrections, or the Office of the

1 Attorney General for the purposes provided for in subsection J, K or
2 L of this section after at least ten (10) days of notice ~~has~~ have
3 been given by publication in one issue of a legal newspaper of the
4 county. If the property is offered for sale at public auction,
5 including an Internet auction, and no bid is received that exceeds
6 fifty percent (50%) of the value of the property, such value to be
7 announced prior to the sale, the Director, Commissioner, Attorney
8 General, or district attorney may refuse to sell the item pursuant
9 to any bid received. The Director, Commissioner, Attorney General,
10 or district attorney shall make a return of the sale and, when
11 confirmed by the court, the order confirming the sale shall vest in
12 the purchaser title to the property so purchased.

13 D. The money received from the sale of property by the Oklahoma
14 State Bureau of Narcotics and Dangerous Drugs Control shall be used
15 for general drug enforcement purposes. These funds shall be
16 transferred to the Bureau of Narcotics Revolving Fund established
17 pursuant to Section 2-107 of this title or in the case of a district
18 attorney, the revolving fund provided for in paragraph 3 of
19 subsection L of Section 2-506 of this title.

20 E. At the request of the Department of Public Safety, the
21 district attorney or a designee of the district attorney may conduct
22 any forfeiture proceedings as described in Section 2-503 of this
23 title on any property subject to forfeiture as described in
24 subsection A, B or C of Section 2-503 of this title. The money

1 received from the sale of property by the Department of Public
2 Safety shall be deposited in the Department of Public Safety
3 Restricted Revolving Fund and shall be expended for law enforcement
4 purposes.

5 F. The money received from the sale of property by the
6 Alcoholic Beverage Laws Enforcement Commission shall be deposited in
7 the General Revenue Fund of the state.

8 G. The money received from the sale of property from the
9 Oklahoma State Bureau of Investigation shall be deposited in the
10 OSBI Revolving Fund and shall be expended for law enforcement
11 purposes.

12 H. The Director of the Department of Corrections shall make a
13 return of the sale and when confirmed by the court, the order
14 confirming the sale shall vest in the purchaser title to the
15 property so purchased. Twenty-five percent (25%) of the money
16 received from the sale shall be disbursed to a revolving fund in the
17 office of the county treasurer of the county wherein the property
18 was seized, ~~said~~ such fund to be used as a revolving fund solely for
19 enforcement of controlled dangerous substances laws, drug abuse
20 prevention and drug abuse education. The remaining seventy-five
21 percent (75%) shall be deposited in the Department of Corrections
22 Revolving Fund to be expended for equipment for probation and parole
23 officers and correctional officers.

1 I. The money received from the sale of property from the Office
2 of the Attorney General shall be deposited in the Attorney ~~General~~
3 General's Law Enforcement Revolving Fund and shall be expended for
4 law enforcement purposes. The Office of the Attorney General may
5 enter into agreements with municipal, county or state agencies to
6 return to such an agency a percentage of proceeds of the sale of any
7 property seized by the agency and forfeited under the provisions of
8 this section.

9 J. Any property, including but not limited to uncontaminated
10 laboratory equipment used in the processing, manufacturing or
11 compounding of controlled dangerous substances in violation of the
12 provisions of the Uniform Controlled Dangerous Substances Act, upon
13 a court order, may be donated for classroom or laboratory use by the
14 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
15 Department of Public Safety, district attorney, the Alcoholic
16 Beverage Laws Enforcement Commission, the Department of Corrections,
17 or the Office of the Attorney General to any public secondary school
18 or technology center school in this state or any institution of
19 higher education within The Oklahoma State System of Higher
20 Education.

21 K. Any vehicle or firearm which has come into the possession
22 and title vested in the Oklahoma State Bureau of Narcotics and
23 Dangerous Drugs Control, the Department of Public Safety, the
24 Oklahoma State Bureau of Investigation, the Office of the Attorney
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1 General, or a district attorney, may be transferred, donated or
2 offered for lease to any sheriff's office, tribal law enforcement
3 agency, campus police department pursuant to the provisions of the
4 Oklahoma Campus Security Act, or police department in this state on
5 an annual basis to assist with the enforcement of the provisions of
6 the Uniform Controlled Dangerous Substances Act. Each agency shall
7 promulgate rules, regulations and procedures for leasing vehicles
8 and firearms. No fully automatic weapons will be subject to the
9 leasing agreement. All firearms leased may be utilized only by
10 ~~C.L.E.E.T.-certified~~ CLEET-certified officers who have received
11 training in the type and class of weapon leased. Every lessee shall
12 be required to submit an annual report to the leasing agency stating
13 the condition of all leased property. A lease agreement may be
14 renewed annually at the option of the leasing agency. Upon
15 termination of a lease agreement, the property shall be returned to
16 the leasing agency for sale or other disposition. All funds derived
17 from lease agreements or other disposition of property no longer
18 useful to law enforcement shall be deposited in the agency's
19 revolving fund, or in the case of the Department of Public Safety,
20 the Department of Public Safety Restricted Revolving Fund, and shall
21 be expended for law enforcement purposes.

22 L. Before disposing of any property pursuant to subsections C
23 through I of this section, the Oklahoma State Bureau of Narcotics
24 and Dangerous Drugs Control, the Department of Public Safety, the

1 Alcoholic Beverage Laws Enforcement Commission, the Oklahoma State
2 Bureau of Investigation, the Department of Corrections, the Office
3 of the Attorney General, or a district attorney may transfer or
4 donate the property to another state agency, tribal law enforcement
5 agency, or school district for use upon request. In addition to the
6 provisions of this section, the Oklahoma State Bureau of Narcotics
7 and Dangerous Drugs Control may transfer or donate property for any
8 purpose pursuant to Section 2-106.2 of this title. The agencies and
9 any district attorney that are parties to any transfer of property
10 pursuant to this subsection shall enter into written agreements to
11 carry out any such transfer of property. Any such agreement may
12 also provide for the granting of title to any property being
13 transferred as the parties deem appropriate. If the transfer of
14 property is to a school district, a written agreement shall be
15 entered into with the superintendent of the school district. No
16 weapons may be transferred to a school district except as provided
17 for in subsection K of this section.

18 SECTION 4. This act shall become effective November 1, 2024.

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