

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 745

By: Yen

4  
5  
6 AS INTRODUCED

7 An Act relating to controlled substances; amending 63  
8 O.S. 2011, Section 2-101, as last amended by Section  
9 1, Chapter 299, O.S.L. 2016 (63 O.S. Supp. 2016,  
10 Section 2-101), which relates to definitions;  
11 modifying certain exemption; specifying qualifying  
12 conditions; and providing an effective date.

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

14 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-101, as  
15 last amended by Section 1, Chapter 299, O.S.L. 2016 (63 O.S. Supp.  
16 2016, Section 2-101), is amended to read as follows:

17 Section 2-101. As used in the Uniform Controlled Dangerous  
18 Substances Act:

19 1. "Administer" means the direct application of a controlled  
20 dangerous substance, whether by injection, inhalation, ingestion or  
21 any other means, to the body of a patient, animal or research  
22 subject by:

- 23 a. a practitioner (or, in the presence of the  
24 practitioner, by the authorized agent of the  
practitioner), or

1           b.    the patient or research subject at the direction and  
2                    in the presence of the practitioner;

3           2.    "Agent" means a peace officer appointed by and who acts in  
4    behalf of the Director of the Oklahoma State Bureau of Narcotics and  
5    Dangerous Drugs Control or an authorized person who acts on behalf  
6    of or at the direction of a person who manufactures, distributes,  
7    dispenses, prescribes, administers or uses for scientific purposes  
8    controlled dangerous substances but does not include a common or  
9    contract carrier, public warehouser or employee thereof, or a person  
10   required to register under the Uniform Controlled Dangerous  
11   Substances Act;

12           3.    "Board" means the Advisory Board to the Director of the  
13   Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

14           4.    "Bureau" means the Oklahoma State Bureau of Narcotics and  
15   Dangerous Drugs Control;

16           5.    "Coca leaves" includes cocaine and any compound,  
17   manufacture, salt, derivative, mixture or preparation of coca  
18   leaves, except derivatives of coca leaves which do not contain  
19   cocaine or ecgonine;

20           6.    "Commissioner" or "Director" means the Director of the  
21   Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

22           7.    "Control" means to add, remove or change the placement of a  
23   drug, substance or immediate precursor under the Uniform Controlled  
24   Dangerous Substances Act;

1       8. "Controlled dangerous substance" means a drug, substance or  
2 immediate precursor in Schedules I through V of the Uniform  
3 Controlled Dangerous Substances Act or any drug, substance or  
4 immediate precursor listed either temporarily or permanently as a  
5 federally controlled substance. Any conflict between state and  
6 federal law with regard to the particular schedule in which a  
7 substance is listed shall be resolved in favor of state law;

8       9. "Counterfeit substance" means a controlled substance which,  
9 or the container or labeling of which without authorization, bears  
10 the trademark, trade name or other identifying marks, imprint,  
11 number or device or any likeness thereof of a manufacturer,  
12 distributor or dispenser other than the person who in fact  
13 manufactured, distributed or dispensed the substance;

14       10. "Deliver" or "delivery" means the actual, constructive or  
15 attempted transfer from one person to another of a controlled  
16 dangerous substance or drug paraphernalia, whether or not there is  
17 an agency relationship;

18       11. "Dispense" means to deliver a controlled dangerous  
19 substance to an ultimate user or human research subject by or  
20 pursuant to the lawful order of a practitioner, including the  
21 prescribing, administering, packaging, labeling or compounding  
22 necessary to prepare the substance for such distribution.

23 "Dispenser" is a practitioner who delivers a controlled dangerous  
24 substance to an ultimate user or human research subject;

1 12. "Distribute" means to deliver other than by administering  
2 or dispensing a controlled dangerous substance;

3 13. "Distributor" means a commercial entity engaged in the  
4 distribution or reverse distribution of narcotics and dangerous  
5 drugs and who complies with all regulations promulgated by the  
6 federal Drug Enforcement Administration and the Oklahoma State  
7 Bureau of Narcotics and Dangerous Drugs Control;

8 14. "Drug" means articles:

9 a. recognized in the official United States

10 Pharmacopoeia, official Homeopathic Pharmacopoeia of  
11 the United States, or official National Formulary, or  
12 any supplement to any of them,

13 b. intended for use in the diagnosis, cure, mitigation,  
14 treatment or prevention of disease in man or other  
15 animals,

16 c. other than food, intended to affect the structure or  
17 any function of the body of man or other animals, and

18 d. intended for use as a component of any article  
19 specified in this paragraph;

20 provided, however, the term "drug" does not include devices or their  
21 components, parts or accessories;

22 15. "Drug-dependent person" means a person who is using a  
23 controlled dangerous substance and who is in a state of psychic or  
24 physical dependence, or both, arising from administration of that

1 controlled dangerous substance on a continuous basis. Drug  
2 dependence is characterized by behavioral and other responses which  
3 include a strong compulsion to take the substance on a continuous  
4 basis in order to experience its psychic effects, or to avoid the  
5 discomfort of its absence;

6 16. "Home care agency" means any sole proprietorship,  
7 partnership, association, corporation, or other organization which  
8 administers, offers, or provides home care services, for a fee or  
9 pursuant to a contract for such services, to clients in their place  
10 of residence;

11 17. "Home care services" means skilled or personal care  
12 services provided to clients in their place of residence for a fee;

13 18. "Hospice" means a centrally administered, nonprofit or  
14 profit, medically directed, nurse-coordinated program which provides  
15 a continuum of home and inpatient care for the terminally ill  
16 patient and the patient's family. Such term shall also include a  
17 centrally administered, nonprofit or profit, medically directed,  
18 nurse-coordinated program if such program is licensed pursuant to  
19 the provisions of this act. A hospice program offers palliative and  
20 supportive care to meet the special needs arising out of the  
21 physical, emotional and spiritual stresses which are experienced  
22 during the final stages of illness and during dying and bereavement.  
23 This care is available twenty-four (24) hours a day, seven (7) days  
24 a week, and is provided on the basis of need, regardless of ability

1 to pay. "Class A" Hospice refers to Medicare certified hospices.

2 "Class B" refers to all other providers of hospice services;

3 19. "Imitation controlled substance" means a substance that is  
4 not a controlled dangerous substance, which by dosage unit  
5 appearance, color, shape, size, markings or by representations made,  
6 would lead a reasonable person to believe that the substance is a  
7 controlled dangerous substance. In the event the appearance of the  
8 dosage unit is not reasonably sufficient to establish that the  
9 substance is an "imitation controlled substance", the court or  
10 authority concerned should consider, in addition to all other  
11 factors, the following factors as related to "representations made"  
12 in determining whether the substance is an "imitation controlled  
13 substance":

- 14 a. statements made by an owner or by any other person in  
15 control of the substance concerning the nature of the  
16 substance, or its use or effect,
- 17 b. statements made to the recipient that the substance  
18 may be resold for inordinate profit,
- 19 c. whether the substance is packaged in a manner normally  
20 used for illicit controlled substances,
- 21 d. evasive tactics or actions utilized by the owner or  
22 person in control of the substance to avoid detection  
23 by law enforcement authorities,

24

- 1 e. prior convictions, if any, of an owner, or any other  
2 person in control of the object, under state or  
3 federal law related to controlled substances or fraud,  
4 and  
5 f. the proximity of the substances to controlled  
6 dangerous substances;

7 20. "Immediate precursor" means a substance which the Director  
8 has found to be and by regulation designates as being the principal  
9 compound commonly used or produced primarily for use, and which is  
10 an immediate chemical intermediary used, or likely to be used, in  
11 the manufacture of a controlled dangerous substance, the control of  
12 which is necessary to prevent, curtail or limit such manufacture;

13 21. "Laboratory" means a laboratory approved by the Director as  
14 proper to be entrusted with the custody of controlled dangerous  
15 substances and the use of controlled dangerous substances for  
16 scientific and medical purposes and for purposes of instruction;

17 22. "Manufacture" means the production, preparation,  
18 propagation, compounding or processing of a controlled dangerous  
19 substance, either directly or indirectly by extraction from  
20 substances of natural or synthetic origin, or independently by means  
21 of chemical synthesis or by a combination of extraction and chemical  
22 synthesis. "Manufacturer" includes any person who packages,  
23 repackages or labels any container of any controlled dangerous  
24

1 substance, except practitioners who dispense or compound  
2 prescription orders for delivery to the ultimate consumer;

3 23. "Marihuana" means all parts of the plant *Cannabis sativa*  
4 L., whether growing or not; the seeds thereof; the resin extracted  
5 from any part of such plant; and every compound, manufacture, salt,  
6 derivative, mixture or preparation of such plant, its seeds or  
7 resin, but shall not include:

- 8 a. the mature stalks of such plant or fiber produced from  
9 such stalks,
- 10 b. oil or cake made from the seeds of such plant,  
11 including cannabidiol derived from the seeds of the  
12 marihuana plant,
- 13 c. any other compound, manufacture, salt, derivative,  
14 mixture or preparation of such mature stalks (except  
15 the resin extracted therefrom), including cannabidiol  
16 derived from mature stalks, fiber, oil or cake,
- 17 d. the sterilized seed of such plant which is incapable  
18 of germination,
- 19 e. for any person participating in a clinical trial to  
20 administer cannabidiol for the treatment of severe  
21 forms of epilepsy pursuant to Section 2-802 of this  
22 title, a drug or substance approved by the federal  
23 Food and Drug Administration for use by those  
24 participants,



1 f. for any person or the parents, legal guardians or  
2 caretakers of the person who have received a written  
3 certification from a physician licensed in this state  
4 that the person has been diagnosed by a physician as  
5 having Lennox-Gastaut Syndrome, Dravet Syndrome, also  
6 known as Severe Myoclonic Epilepsy of Infancy, or any  
7 other severe form of epilepsy that is not adequately  
8 treated by traditional medical therapies, spasticity  
9 due to multiple sclerosis or due to paraplegia,  
10 intractable nausea and vomiting, appetite stimulation  
11 with chronic wasting diseases, the substance  
12 cannabidiol, a nonpsychoactive cannabinoid, found in  
13 the plant Cannabis sativa L. or any other preparation  
14 thereof, that has a tetrahydrocannabinol concentration  
15 of not more than three-tenths of one percent (0.3%)  
16 and that is delivered to the patient in the form of a  
17 liquid, ~~or~~

18 g. industrial hemp, from the plant Cannabis sativa L. and  
19 any part of such plant, whether growing or not, with a  
20 delta-9 tetrahydrocannabinol concentration of not more  
21 than three-tenths of one percent (0.3%) on a dry  
22 weight basis which shall not be grown anywhere in the  
23 State of Oklahoma but may be shipped to Oklahoma  
24

1           pursuant to the provisions of subparagraph e or f of  
2           this paragraph, or

3           h. marihuana for use by any person age eighteen (18) or  
4           older, or the parents, legal guardians or caretakers  
5           of the person who has received a written certification  
6           from a physician licensed in this state that the  
7           person has:

8           (1) neuropathic pain,

9           (2) persistent muscle spasms due to multiple  
10           sclerosis or paraplegia,

11           (3) nausea or vomiting due to chemotherapy,

12           (4) loss of weight or appetite due to cancer or  
13           HIV/AIDS, or

14           (5) chronic pain when other treatments have failed;

15           24. "Medical purpose" means an intention to utilize a  
16           controlled dangerous substance for physical or mental treatment, for  
17           diagnosis, or for the prevention of a disease condition not in  
18           violation of any state ~~or federal~~ law and not for the purpose of  
19           satisfying physiological or psychological dependence or other abuse;

20           25. "Mid-level practitioner" means an advanced practice nurse  
21           as defined and within parameters specified in Section 567.3a of  
22           Title 59 of the Oklahoma Statutes, or a certified animal euthanasia  
23           technician as defined in Section 698.2 of Title 59 of the Oklahoma  
24           Statutes, or an animal control officer registered by the Oklahoma

1 State Bureau of Narcotics and Dangerous Drugs Control under  
2 subsection B of Section 2-301 of this title within the parameters of  
3 such officer's duty under Sections 501 through 508 of Title 4 of the  
4 Oklahoma Statutes;

5 26. "Narcotic drug" means any of the following, whether  
6 produced directly or indirectly by extraction from substances of  
7 vegetable origin, or independently by means of chemical synthesis,  
8 or by a combination of extraction and chemical synthesis:

- 9 a. opium, coca leaves and opiates,
- 10 b. a compound, manufacture, salt, derivative or  
11 preparation of opium, coca leaves or opiates,
- 12 c. cocaine, its salts, optical and geometric isomers, and  
13 salts of isomers,
- 14 d. ecgonine, its derivatives, their salts, isomers and  
15 salts of isomers, and
- 16 e. a substance, and any compound, manufacture, salt,  
17 derivative or preparation thereof, which is chemically  
18 identical with any of the substances referred to in  
19 subparagraphs a through d of this paragraph, except  
20 that the words "narcotic drug" as used in Section 2-  
21 101 et seq. of this title shall not include  
22 decocainized coca leaves or extracts of coca leaves,  
23 which extracts do not contain cocaine or ecgonine;

24

1       27. "Opiate" means any substance having an addiction-forming or  
2 addiction-sustaining liability similar to morphine or being capable  
3 of conversion into a drug having such addiction-forming or  
4 addiction-sustaining liability. It does not include, unless  
5 specifically designated as controlled under the Uniform Controlled  
6 Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-  
7 methyl-morphinan and its salts (dextromethorphan). It does include  
8 its racemic and levorotatory forms;

9       28. "Opium poppy" means the plant of the species *Papaver*  
10 *somniferum* L., except the seeds thereof;

11       29. "Peace officer" means a police officer, sheriff, deputy  
12 sheriff, district attorney's investigator, investigator from the  
13 Office of the Attorney General, or any other person elected or  
14 appointed by law to enforce any of the criminal laws of this state  
15 or of the United States;

16       30. "Person" means an individual, corporation, government or  
17 governmental subdivision or agency, business trust, estate, trust,  
18 partnership or association, or any other legal entity;

19       31. "Poppy straw" means all parts, except the seeds, of the  
20 opium poppy, after mowing;

21       32. "Practitioner" means:

- 22           a. (1) a medical doctor or osteopathic physician,  
23               (2) a dentist,  
24               (3) a podiatrist,

- 1 (4) an optometrist,  
2 (5) a veterinarian,  
3 (6) a physician assistant under the supervision of a  
4 licensed medical doctor or osteopathic physician,  
5 (7) a scientific investigator, or  
6 (8) any other person,

7 licensed, registered or otherwise permitted to  
8 prescribe, distribute, dispense, conduct research with  
9 respect to, use for scientific purposes or administer  
10 a controlled dangerous substance in the course of  
11 professional practice or research in this state, or

- 12 b. a pharmacy, hospital, laboratory or other institution  
13 licensed, registered or otherwise permitted to  
14 distribute, dispense, conduct research with respect  
15 to, use for scientific purposes or administer a  
16 controlled dangerous substance in the course of  
17 professional practice or research in this state;

18 33. "Production" includes the manufacture, planting,  
19 cultivation, growing or harvesting of a controlled dangerous  
20 substance;

21 34. "State" means the State of Oklahoma or any other state of  
22 the United States;

23 35. "Ultimate user" means a person who lawfully possesses a  
24 controlled dangerous substance for the person's own use or for the

1 use of a member of the person's household or for administration to  
2 an animal owned by the person or by a member of the person's  
3 household;

4 36. "Drug paraphernalia" means all equipment, products and  
5 materials of any kind which are used, intended for use, or fashioned  
6 specifically for use in planting, propagating, cultivating, growing,  
7 harvesting, manufacturing, compounding, converting, producing,  
8 processing, preparing, testing, analyzing, packaging, repackaging,  
9 storing, containing, concealing, injecting, ingesting, inhaling or  
10 otherwise introducing into the human body, a controlled dangerous  
11 substance in violation of the Uniform Controlled Dangerous  
12 Substances Act including, but not limited to:

13 a. kits used, intended for use, or fashioned specifically  
14 for use in planting, propagating, cultivating, growing  
15 or harvesting of any species of plant which is a  
16 controlled dangerous substance or from which a  
17 controlled dangerous substance can be derived,

18 b. kits used, intended for use, or fashioned specifically  
19 for use in manufacturing, compounding, converting,  
20 producing, processing or preparing controlled  
21 dangerous substances,

22 c. isomerization devices used, intended for use, or  
23 fashioned specifically for use in increasing the  
24

1           potency of any species of plant which is a controlled  
2           dangerous substance,

3           d.   testing equipment used, intended for use, or fashioned  
4           specifically for use in identifying, or in analyzing  
5           the strength, effectiveness or purity of controlled  
6           dangerous substances,

7           e.   scales and balances used, intended for use, or  
8           fashioned specifically for use in weighing or  
9           measuring controlled dangerous substances,

10          f.   diluent and adulterants, such as quinine  
11          hydrochloride, mannitol, mannite, dextrose and  
12          lactose, used, intended for use, or fashioned  
13          specifically for use in cutting controlled dangerous  
14          substances,

15          g.   separation gins and sifters used, intended for use, or  
16          fashioned specifically for use in removing twigs and  
17          seeds from, or in otherwise cleaning or refining,  
18          marihuana,

19          h.   blenders, bowls, containers, spoons and mixing devices  
20          used, intended for use, or fashioned specifically for  
21          use in compounding controlled dangerous substances,

22          i.   capsules, balloons, envelopes and other containers  
23          used, intended for use, or fashioned specifically for  
24

1 use in packaging small quantities of controlled  
2 dangerous substances,

3 j. containers and other objects used, intended for use,  
4 or fashioned specifically for use in parenterally  
5 injecting controlled dangerous substances into the  
6 human body,

7 k. hypodermic syringes, needles and other objects used,  
8 intended for use, or fashioned specifically for use in  
9 parenterally injecting controlled dangerous substances  
10 into the human body,

11 l. objects used, intended for use, or fashioned  
12 specifically for use in ingesting, inhaling or  
13 otherwise introducing marihuana, cocaine, hashish or  
14 hashish oil into the human body, such as:

15 (1) metal, wooden, acrylic, glass, stone, plastic or  
16 ceramic pipes with or without screens, permanent  
17 screens, hashish heads or punctured metal bowls,

18 (2) water pipes,

19 (3) carburetion tubes and devices,

20 (4) smoking and carburetion masks,

21 (5) roach clips, meaning objects used to hold burning  
22 material, such as a marihuana cigarette, that has  
23 become too small or too short to be held in the  
24 hand,



- 1 (6) miniature cocaine spoons and cocaine vials,
- 2 (7) chamber pipes,
- 3 (8) carburetor pipes,
- 4 (9) electric pipes,
- 5 (10) air-driven pipes,
- 6 (11) chillums,
- 7 (12) bonges, or
- 8 (13) ice pipes or chillers,

9 m. all hidden or novelty pipes, and

10 n. any pipe that has a tobacco bowl or chamber of less  
11 than one-half (1/2) inch in diameter in which there is  
12 any detectable residue of any controlled dangerous  
13 substance as defined in this section or any other  
14 substances not legal for possession or use;

15 provided, however, the term "drug paraphernalia" shall not include  
16 separation gins intended for use in preparing tea or spice, clamps  
17 used for constructing electrical equipment, water pipes designed for  
18 ornamentation in which no detectable amount of an illegal substance  
19 is found or pipes designed and used solely for smoking tobacco,  
20 traditional pipes of an American Indian tribal religious ceremony,  
21 or antique pipes that are thirty (30) years of age or older;

22 37. a. "Synthetic controlled substance" means a substance:  
23  
24

- 1 (1) the chemical structure of which is substantially  
2 similar to the chemical structure of a controlled  
3 dangerous substance in Schedule I or II,  
4 (2) which has a stimulant, depressant, or  
5 hallucinogenic effect on the central nervous  
6 system that is substantially similar to or  
7 greater than the stimulant, depressant or  
8 hallucinogenic effect on the central nervous  
9 system of a controlled dangerous substance in  
10 Schedule I or II, or  
11 (3) with respect to a particular person, which such  
12 person represents or intends to have a stimulant,  
13 depressant, or hallucinogenic effect on the  
14 central nervous system that is substantially  
15 similar to or greater than the stimulant,  
16 depressant, or hallucinogenic effect on the  
17 central nervous system of a controlled dangerous  
18 substance in Schedule I or II.

19 b. The designation of gamma butyrolactone or any other  
20 chemical as a precursor, pursuant to Section 2-322 of  
21 this title, does not preclude a finding pursuant to  
22 subparagraph a of this paragraph that the chemical is  
23 a synthetic controlled substance.

24 c. "Synthetic controlled substance" does not include:

- 1 (1) a controlled dangerous substance,
- 2 (2) any substance for which there is an approved new
- 3 drug application,
- 4 (3) with respect to a particular person any
- 5 substance, if an exemption is in effect for
- 6 investigational use, for that person under the
- 7 provisions of Section 505 of the Federal Food,
- 8 Drug and Cosmetic Act, Title 21 of the United
- 9 States Code, Section 355, to the extent conduct
- 10 with respect to such substance is pursuant to
- 11 such exemption, or
- 12 (4) any substance to the extent not intended for
- 13 human consumption before such an exemption takes
- 14 effect with respect to that substance.

15 d. Prima facie evidence that a substance containing  
16 salvia divinorum has been enhanced, concentrated or  
17 chemically or physically altered shall give rise to a  
18 rebuttable presumption that the substance is a  
19 synthetic controlled substance;

20 38. "Tetrahydrocannabinols" means all substances that have been  
21 chemically synthesized to emulate the tetrahydrocannabinols of  
22 marihuana;

23 39. "Isomer" means the optical isomer, except as used in  
24 subsections C and F of Section 2-204 of this title and paragraph 4

1 of subsection A of Section 2-206 of this title. As used in  
2 subsections C and F of Section 2-204 of this title, "isomer" means  
3 the optical, positional or geometric isomer. As used in paragraph 4  
4 of subsection A of Section 2-206 of this title, the term "isomer"  
5 means the optical or geometric isomer;

6 40. "Hazardous materials" means materials, whether solid,  
7 liquid or gas, which are toxic to human, animal, aquatic or plant  
8 life, and the disposal of which materials is controlled by state or  
9 federal guidelines; and

10 41. "Anhydrous ammonia" means any substance that exhibits  
11 cryogenic evaporative behavior and tests positive for ammonia.

12 SECTION 2. This act shall become effective November 1, 2017.

13

14 56-1-584 AM 1/20/2017 8:03:21 AM

15

16

17

18

19

20

21

22

23

24