

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 3241

By: Derby

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5  
6 AS INTRODUCED

7 An Act relating to public health and safety; amending  
8 63 O.S. 2001, Section 2-321 and Section 1, Chapter  
9 288, O.S.L. 2002, as last amended by Section 4,  
10 Chapter 59, O.S.L. 2004 (63 O.S. Supp. 2009, Section  
11 2-332), which relate to the Precursor Substances Act;  
updating statutory references; directing the Oklahoma  
State Bureau of Narcotics and Dangerous Drugs Control  
to exchange certain records with other states; and  
providing an effective date.

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

15 SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-321, is  
16 amended to read as follows:

17 Section 2-321. Sections ~~3~~ 2-322 through ~~11~~ 2-333 of this ~~act~~  
18 title shall constitute a part of the Uniform Controlled Dangerous  
19 Substances Act and shall be known and may be cited as the "Precursor  
20 Substances Act".

21 SECTION 2. AMENDATORY Section 1, Chapter 288, O.S.L.  
22 2002, as last amended by Section 4, Chapter 59, O.S.L. 2004 (63 O.S.  
23 Supp. 2009, Section 2-332), is amended to read as follows:  
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1 Section 2-332. A. It shall be unlawful for a person to  
2 knowingly and unlawfully possess a drug product containing  
3 ephedrine, pseudoephedrine or phenylpropanolamine, or their salts,  
4 isomers or salts of isomers with intent to use the product as a  
5 precursor to manufacture methamphetamine or another controlled  
6 substance.

7 B. Except as provided in this subsection, possession of a drug  
8 product containing more than nine (9) grams of ephedrine,  
9 pseudoephedrine or phenylpropanolamine, or their salts, isomers or  
10 salts of isomers shall constitute a rebuttable presumption of the  
11 intent to use the product as a precursor to methamphetamine or  
12 another controlled substance. The rebuttable presumption  
13 established by this subsection shall not apply to the following  
14 persons who are lawfully possessing drug products in the course of  
15 legitimate business:

- 16 1. A retail distributor of drug products or wholesaler;
- 17 2. A wholesale drug distributor, or its agents, licensed by the  
18 Board of Pharmacy;
- 19 3. A manufacturer of drug products, or its agents, licensed by  
20 the Board of Pharmacy;
- 21 4. A pharmacist licensed by the Board of Pharmacy; and
- 22 5. A licensed healthcare professional possessing the drug  
23 products in the course of carrying out his or her profession.

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1 C. A violation of this section shall, upon conviction, be a  
2 felony punishable as provided for in subsection G of Section 2-401  
3 of this title.

4 D. Any wholesaler, manufacturer, or distributor of drug  
5 products containing pseudoephedrine or phenylpropanolamine, or their  
6 salts, isomers, or salts of isomers shall obtain a registration  
7 annually from the Oklahoma State Bureau of Narcotics and Dangerous  
8 Drugs Control. Any such wholesaler, manufacturer, or distributor  
9 shall keep complete records of all transactions involving such drug  
10 products including the names of all parties involved in the  
11 transaction and amount of the drug products involved. The records  
12 shall be kept readily retrievable and separate from all other  
13 invoices or records of transactions not involving such drug  
14 products, and shall be maintained for not less than three (3) years.  
15 Upon receiving a copy of the records of transactions from a  
16 wholesaler, manufacturer, or distributor, the Bureau shall exchange  
17 said records of transactions with other states.

18 E. As used in this section:

19 1. "Manufacturer" means any person within this state who  
20 produces, compounds, packages, or in any manner initially prepares  
21 for sale or use any drug product described in subsection D of this  
22 section, or any such person in another state if they cause the  
23 products to be compounded, packaged, or transported into this state;

1       2. "Wholesaler" means any person within this state or another  
2 state, other than a manufacturer, who sells, transfers, or in any  
3 manner furnishes a drug product described in subsection A of this  
4 section to any other person in this state for the purpose of being  
5 resold;

6       3. "Distributor" means any person within this state or another  
7 state, other than a manufacturer or wholesaler, who sells, delivers,  
8 transfers, or in any manner furnishes a drug product described in  
9 subsection A of this section to any person who is not the ultimate  
10 user or consumer of the product; and

11       4. "Readily retrievable" means available for inspection without  
12 prior notice at the registration address if that address is within  
13 the State of Oklahoma. If the registration address is in a state  
14 other than Oklahoma, it means records must be furnished within three  
15 (3) working days by courier, facsimile, mail or electronic mail.

16       F. Any substances possessed without a registration as provided  
17 in subsection D of this section shall be subject to forfeiture upon  
18 conviction for a violation of this section.

19       G. In addition to any administrative penalties provided by law,  
20 any violation of this section shall, upon conviction, be a  
21 misdemeanor, ~~punishable upon conviction~~ by a fine ~~only in an amount~~  
22 of not more than Ten Thousand Dollars (\$10,000.00).

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SECTION 3. This act shall become effective November 1, 2010.

52-2-8450            GRS            12/31/09