An Act

ENROLLED HOUSE
BILL NO. 1798

By: Tibbs and Roan of the House

and

David of the Senate

An Act relating to public health and safety; amending 63 O.S. 2001, Section 2-509, which relates to the Uniform Controlled Dangerous Substances Act; making certain acts unlawful; and providing an effective date.

SUBJECT: Uniform Controlled Dangerous Substances Act

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-509, is amended to read as follows:

Section 2-509. A. All species of plants from which controlled dangerous substances in Schedules I and II may be derived are hereby declared inimical to health and welfare of the public, and the intent of the Legislature is to control and eradicate these species of the plants in the State of Oklahoma.

B. It shall be unlawful for any person to cultivate or produce, or to knowingly permit the cultivation, production, or wild growing of any species of such plants, on any lands owned or controlled by such person, and it is hereby declared the duty of every such person to destroy all such plants found growing on lands owned or controlled by him.

C. 1. Whenever any peace officer of the state shall receive information that any species of any such plants has been found growing on any private lands in the State of Oklahoma, he shall notify the sheriff and county commissioners of the county wherein

such plants are found growing. Within five (5) days of receipt of such notice, the county commissioners shall notify the owner or person in possession of such lands that such plants have been found growing on the said lands and that the same must be destroyed or eradicated within fifteen (15) days. When the fifteen (15) days have elapsed, the reporting peace officer shall cause an investigation to be made of the aforesaid lands, and if any such plants be found growing thereon, the commissioners shall cause the same to be destroyed or eradicated by either cutting and burning or by applications of herbicides approved for such purpose by the Department of Agriculture in accordance with Section 2-505 of this title.

2. Whenever any such plants are destroyed or eradicated by order of the commissioners as provided herein, the cost of the same shall, if the work or labor be furnished by the commissioners, be taxed against the lands whereon the work was performed, and shall be a lien upon such land in all manner and respects as a lien of judgment, if the owner is charged with a violation of subsection B of this section. If the violation of subsection B of this section is by a person other than the owner of the land, without the knowledge of the owner, the costs shall be paid by the initiating law enforcement agency.

D. Knowingly violating the provisions of subsection B <u>or subsection H</u> of this section is hereby declared, as to the owner, or person in possession of such lands, to be a felony and punishable as such by a fine not to exceed Fifty Thousand Dollars ($50,000.00) and imprisonment in the ~~State Penitentiary~~ <u>custody of the Department of Corrections</u> for not less than two (2) years nor more than life. The fine provided for in this subsection shall be in addition to other punishments provided by law and shall not be in lieu of other punishment. Any person convicted of a second or subsequent violation of subsection B <u>or subsection H</u> of this section is punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized. Any sentence shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation, except when the conviction is for a first offense.

E. It shall be the duty of any peace officer of the State of Oklahoma who receives information of such plants growing in the State of Oklahoma, to make notice, in writing, to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the future destruction or eradication of the annual growth of such plants shall

be supervised by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Any destruction or eradication of the annual growth of such plants supervised by the Bureau shall be by cutting and burning the same or by destruction and eradication through applications of herbicides approved for such purpose by the Department of Agriculture.

F. Any application of herbicides authorized by this section shall be made pursuant to the provisions of Section 2-505 of this title.

G. In lieu of the eradication procedures provided for in subsections B and C of this section, all species of plants from which controlled dangerous substances in Schedules I and II of the Uniform Controlled Dangerous Substances Act may be derived, may be disposed of pursuant to the provisions of subsection C of Section 2-505 of this title.

H. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to manufacture or attempt to manufacture any controlled dangerous substance by cooking, burning, or extracting and converting or attempting to extract and convert marihuana or marihuana oil into hashish, hashish oil or hashish powder.

SECTION 2. This act shall become effective November 1, 2011.

Passed the House of Representatives the 17th day of March, 2011.

Lee Denney

Presiding Officer of the House of Representatives

Passed the Senate the 20th day of April, 2011.

A Bryant

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 25th

day of April, **20** 11,

at 4:22 **o'clock** P **M.**

By: Jessica R Rogers

Approved by the Governor of the State of Oklahoma the 29th **day of** April, **20** 11, **at** 1:30 **o'clock** P **M.**

Mary Fallin

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 29th **day of** April, **20**11,

at 2:51 **o'clock** P **M.**

By: Michelle R Day