

An Act

ENROLLED SENATE
BILL NO. 1783

By: Paxton of the Senate

and

Kerbs and Fugate of the
House

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 2011, Section 2-101, as last amended by Section 16, Chapter 428, O.S.L. 2019 (63 O.S. Supp. 2019, Section 2-101), which relates to definitions; modifying definition; 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. 2011, Section 2-101, as last amended by Section 16, Chapter 428, O.S.L. 2019 (63 O.S. Supp. 2019, Section 2-101), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

9. "Counterfeit substance" means a controlled substance which, or the container or labeling of which without authorization, bears the trademark, trade name or other identifying marks, imprint,

number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance;

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

11. "Dispense" means to deliver a controlled dangerous substance to an ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for such distribution. "Dispenser" is a practitioner who delivers a controlled dangerous substance to an ultimate user or human research subject;

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

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

14. "Drug" means articles:

- a. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them,
- b. intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals,
- c. other than food, intended to affect the structure or any function of the body of man or other animals, and
- d. intended for use as a component of any article specified in this paragraph;

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

15. "Drug-dependent person" means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from administration of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort of its absence;

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

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

18. "Hospice" means a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program which provides a continuum of home and inpatient care for the terminally ill patient and the patient's family. Such term shall also include a centrally administered, nonprofit or profit, medically directed, nurse-coordinated program if such program is licensed pursuant to the provisions of the Uniform Controlled Dangerous Substances Act. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available twenty-four (24) hours a day, seven (7) days a week, and is provided on the basis of need, regardless of ability to pay. "Class A" Hospice refers to Medicare certified hospices. "Class B" refers to all other providers of hospice services;

19. "Imitation controlled substance" means a substance that is not a controlled dangerous substance, which by dosage unit appearance, color, shape, size, markings or by representations made, would lead a reasonable person to believe that the substance is a

controlled dangerous substance. In the event the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance", the court or authority concerned should consider, in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance":

- a. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, or its use or effect,
- b. statements made to the recipient that the substance may be resold for inordinate profit,
- c. whether the substance is packaged in a manner normally used for illicit controlled substances,
- d. evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities,
- e. prior convictions, if any, of an owner, or any other person in control of the object, under state or federal law related to controlled substances or fraud, and
- f. the proximity of the substances to controlled dangerous substances;

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

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

22. "Manufacture" means the production, preparation, propagation, compounding or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" includes any person who packages, repackages or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer;

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

- a. the mature stalks of such plant or fiber produced from such stalks,
- b. oil or cake made from the seeds of such plant, including cannabidiol derived from the seeds of the marijuana plant,
- c. any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), including cannabidiol derived from mature stalks, fiber, oil or cake,
- d. the sterilized seed of such plant which is incapable of germination,
- e. for any person participating in a clinical trial to administer cannabidiol for the treatment of severe forms of epilepsy pursuant to Section 2-802 of this title, a drug or substance approved by the federal Food and Drug Administration for use by those participants,
- f. for any person or the parents, legal guardians or caretakers of the person who have received a written certification from a physician licensed in this state that the person has been diagnosed by a physician as

having Lennox-Gastaut Syndrome, Dravet Syndrome, also known as Severe Myoclonic Epilepsy of Infancy, or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, spasticity due to multiple sclerosis or due to paraplegia, intractable nausea and vomiting, appetite stimulation with chronic wasting diseases, the substance cannabidiol, a nonpsychoactive cannabinoid, found in the plant Cannabis sativa L. or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid,

- g. any federal Food and Drug Administration-approved cannabidiol drug or substance, or
- h. industrial hemp, from the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis which shall ~~not be grown anywhere in the State of Oklahoma but may be shipped to Oklahoma pursuant to the provisions of subparagraph e or f of this paragraph~~ only be grown pursuant to the Oklahoma Industrial Hemp Program and may be shipped intrastate and interstate;

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

25. "Mid-level practitioner" means an Advanced Practice Registered Nurse as defined and within parameters specified in Section 567.3a of Title 59 of the Oklahoma Statutes, or a certified animal euthanasia technician as defined in Section 698.2 of Title 59 of the Oklahoma Statutes, or an animal control officer registered by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control under subsection B of Section 2-301 of this title within the

