

CRIMINAL ORDINANCE

CHAPTER E--CRIMES AGAINST THE PUBLIC

ARTICLE 500: AIDING AN ESCAPED PRISONER

1 (A) Aiding an Escaped Prisoner: Any person who intentionally aids or assists an escaped prisoner, or fails to report the presence of escaped prisoner, or who conceals the presence of escaped prisoner, or who prevents the recapture of an escaped prisoner shall be guilty of aiding an escaped prisoner.

(B) Punishment: Any person found guilty of aiding an escaped prisoner shall be punished a fine not more than Three Hundred Dollars (\$300.00) and/or three not more than (3) months jail.

ARTICLE 501: BRIBERY

1 (A) Bribery: Any person, business, or corporation who intentionally gives, offers, solicits, promises any thing of value to any elected or appointed official, public officer, or juror of the Kickapoo Tribe of Oklahoma as to secure a vote, decision, or judgment on any matter of interest to that person, business, or corporation shall be guilty of bribery.

(B) Punishment: Any person, business, or corporation found guilty of bribery be imposed a punishment not to exceed a fine of One Thousand Dollars (\$1,000.00) and/or six (6) months jail. If a corporation the Court can order the revocation of the corporate charter.

ARTICLE 502: OFFICIAL ACCEPTING A BRIBE

1 (A) Official Accepting a Bribe: Any elected or appointed official, public servant or officer, juror, judge, or justice who accepts a bribe or anything of value as to influence the outcome of his/her vote or the interference of his/her duties shall be guilty of accepting a bribe.

(B) Punishment: Any person found guilty of accepting a bribe shall be imposed a fine of not more than One Thousand Dollars (\$1,000.00) and/or no more than six (6) months jail.

ARTICLE 503: TAMPERING WITH A WITNESS

1 (A) Tampering with a witness: No person shall bribe, solicit, threaten, intimidate, or force, any witness to with hold or conceal information or documents, misrepresent facts known to the witness, or to encourage the witnesses to elude or avoid legal process, if that person knows, or has reason to believe, that a legal or official investigation is being conducted by law enforcement or properly authorized Tribal officials.

(B) Punishment: Any person found guilty of a tampering with a witness shall be fined no more than Three Hundred Dollars (\$300.00) and\or no more than one (1) month jail.

ARTICLE 504: INTERFERENCE WITH PUBLIC RECORDS

1 (A) Interference with public records: No person or Tribal official shall intentionally falsify information, conceal, destroy, wrongfully alter, make a false entry into, prevent the discovery, or wrongfully remove Tribal documents.

(B) Punishment: Any person or Tribal official found guilty of interference with public records shall be punished a fine not to exceed Three Hundred Dollars (\$300.00) and\or no more than one (1) month jail.

ARTICLE 505: OBSTRUCTION OF JUSTICE

1 (A) Obstruction of Justice: Any person who intentionally prevents or interferes with a law enforcement investigation, warns another as to prevent an arrest, conceals or destroys evidence concerning a criminal matter, or misleads or provides false information to a law enforcement officer shall be guilty of obstruction of justice.

(B) Under this Ordinance, any person who encourages, solicits, threatens, or uses force against another, so that person will obstruct justice, is guilty of obstruction of justice.

(C) Punishment: Any person who is found guilty of obstruction of justice shall be imposed a fine of not more than Five Hundred Dollars (\$500.00) and\or four no more than (4) months in jail.

ARTICLE 505: PERJURY

1 (A) Perjury: Any person who intentionally, at a trial, hearing, investigation, deposition, under oath, or on a written document subscribes, under oath, that the following was true, when in fact the person knew such statement or written declaration was false shall be guilty of perjury.

(B) Punishment: Any person found guilty of perjury shall be imposed a fine not to exceed Five Hundred Dollars (\$500.00) and\ or no more than three (3) months in jail.

ARTICLE 506: DISTURBING THE PEACE:

1 (A) Disturbing the Peace: Any person who intentionally acts in a manner that disturbs the peace, creates a public nuisance, or who threatens the health or safety of another, or outrages public decency shall be guilty of disturbing the peace.

(B) Under this Ordinance, any person who has possession or control over a domestic or wild animal, whether living or dead, that disturbs the peace or health of another, shall be guilty of disturbing the peace.

(C) Punishment: A person found guilty of disturbing the peace shall be imposed a fine not to exceed Fifty Dollars (\$50.00) and\or no more than five (5) days in jail.

ARTICLE 507: PEEPING TOM:

1 (A) Peeping Tom: Any person who intentionally hides, waits, or secretly invades the privacy of another person while that person is in their residency or dwelling with the intent to watch or gaze upon that person shall be guilty of peeping tom.

(B) Punishment: A person found guilty of being a peeping tom shall be imposed a fine not to exceed Fifty Dollars (\$50.00) and\or no more than five (5) days in jail.

ARTICLE 508: INCITEMENT OF A RIOT

1 (A) Incitement of a Riot: Any person who intentionally incites, initiates, provokes, utters profane or abusive language to encourage riotous behavior, or who solicits a riotous assembly shall be guilty of incitement a riot.

(B) This Ordinance, shall not impose limitations on any member's Tribal Constitutional right to speak or peacefully assembly.

(C) Punishment: A person found guilty of incitement of a riot shall be punished a fine of not more than Two Hundred Dollars (\$200.00) and\or no more than two (2) months in jail.

ARTICLE 509: FAILURE TO DISPERSE

1 (A) Failure to Disperse: Any person who intentionally refuses or knowingly fails to obey an order to disperse or leave the immediate vicinity given by a law enforcement officer or other public servant performing an enforcement function, at the scene of a riot, fire, or other public disorder or given in the official course of an investigation of the commission of an accident, fire, offense, or suspected offense.

(B) Punishment: A person found guilty of failure to disperse shall be punished a fine not to exceed Two Hundred Dollars (\$200.00) and\or no more than two (2) months jail.

ARTICLE 510: FALSE ARREST

1 (A) False Arrest: Any public official or officer who exceeds the scope of their authority or pretends to be acting as an officer of the Court shall not intentionally arrest another except when that officer has reason or probable cause to do so.

(B) Punishment: Any public official or officer that is found guilty of false arrest shall be imposed of sentence not to exceed Five Hundred Dollars (\$500.00) and\or no more than three (3) months in jail.

ARTICLE 511: RESISTING LAWFUL ARREST

1 (A) Resisting Lawful Arrest: Any person who intentionally resists by any physical force their legal arrest or detention shall be guilty of resisting arrest.

(B) Punishment: Any person who is found guilty of resisting lawful arrest shall be punished with a fine not to exceed Three Hundred Dollars (\$300.00) and\or no more than three (3) months jail.

ARTICLE 512: REFUSING TO AID AN OFFICER

1 (A) Refusing to aid an officer: No person shall intentionally or recklessly refuse to aid a law enforcement officer, or a fireman, in the performance of his\her official duties when called upon to do so by an officer or fireman.

(B) Punishment: Any person found guilty of refusing to aid an officer or a fireman shall be punished at a fine not to exceed Two Hundred Dollars (\$200.00) and\or no more than one (1) month jail.

ARTICLE 513: ESCAPE

1 (A) Escape: Any person who intentionally escapes from the detention of a public officer or law enforcement official or escapes from a detention facility shall be guilty of escape.

(B) Punishment: Any person found to guilty of escape shall be imposed a fine not to exceed Three Hundred Dollars (\$300.00) and\or no more than three (3) months in jail.

ARTICLE 514: FAILURE TO OBEY AN ORDER OF THE COURT

1 (A) Failure to obey an order of the Court: Any person, business, or corporation who intentionally refuses to honor, abide, or obey any order of the Court shall be guilty of failure to obey an order of the Court.

(B) Under this Ordinance, if a parent failed to honor a child support order than that parent would be in violation of a failure to obey an order of the Court.

(C) This article shall not apply to a failure to appear as a party in a civil action where default or a similar judgment is available to the other party.

(D) Punishment: Any person found guilty of refusing to obey an any order of the Court shall be imposed a fine not to exceed Five Hundred Dollars (\$500.00) and\or no more than six (6) months in jail.

#### ARTICLE 515: DISTURBING A RELIGIOUS OR CEREMONIAL ASSEMBLY

1 (A) Disturbing a Religious or Ceremonial Assembly: Any person who intentionally disturbs, prevents, interferes, acts or verbally speaks in a disrespectful manner as to offend the majority of participants at religious or ceremonial assembly shall be guilty of disturbing a religious or ceremonial assembly.

(B) Punishment: Any person found to be guilty of disturbing a religious or ceremonial assembly shall be imposed a fine not to exceed Five Hundred Dollars (\$500.00) and\or no more than six (6) months jail.

#### ARTICLE 516: POSSESSION OF DRUGS WITHOUT MEDICAL SUPERVISION

1 (A) Possession of Drugs: Any person who intentionally has in their possession any mind altering drug, drugs that would be considered by the community as illegal or harmful to the mind, included would be vapor or inhalant materials with the presence of paranehila, or any other dangerous substance without prior medical approval shall be guilty of possession of drugs without medical supervision.

(B) Punishment: Any person found to be guilty of possession of drugs without medical supervision shall be imposed a fine not to exceed Five Hundred Dollars (\$500.00) Dollars and\or no more than six (6) months jail.

#### ARTICLE 517: PUBLIC INTOXICATION

1 (A) Public Intoxication: Any person who intentionally appears to any degree, in public acting in a manner or under the influence of beer, drugs, vapors, inhalants, any other dangerous substance, and alcohol as to interfere with the peace, quiet, and tranquility of the community shall be guilty of public intoxication.

(B) Punishment: Any person found guilty of public intoxication shall be imposed a fine not to exceed One Hundred Dollars (\$100.00) and\or no more than ten (10) days in jail. On any subsequent conviction the Court can impose a fine of Three Hundred Dollars (\$300.00) and\or no more than two (2) months jail. If necessary, the Court can order treatment or counseling.

ARTICLE 518: POSSESSION OF ALCOHOLIC BEVERAGES, OR INHALANTS  
WITHIN THE JURISDICTION OF THE KICKAPOO TRIBE OF  
OKLAHOMA

1 (A) Possession of Alcoholic Beverages Or Inhalants: Any person who brings alcoholic beverages, spirits, wine, whiskey, liquor, and\or inhalants or vapors for consumption into the jurisdiction of the Kickapoo Tribe of Oklahoma shall be guilty of possession of alcoholic beverages or inhalants or vapors on Tribal land.

(B) Punishment: Any person found to be guilty of possession of alcoholic beverages on Tribal land shall be imposed with a fine not to exceed One Hundred Dollars (\$100.00) and\or no more than ten (10) days in jail. On any subsequent conviction the Court can impose a fine of not more than Five Hundred Dollars (\$500.00) and\or no more than three (3) months in jail. If necessary, the Court can order treatment or counseling.

ARTICLE 519: CONSUMPTION OR ABUSE OF INHALANT OR CHEMICAL  
MATERIALS

1 (A) Consumption or abuse of Inhalant or Chemicals Materials: Any person who intentionally consumes, smells, inhales, injects, partakes, or indulges with inhalants, paints, gasolines, fuels, or chemical solvents or who intentionally sells, distributes, or who gives away such substances for human consumption shall be guilty of consumption or abuse of chemical materials.

(B) Punishment: Any person found to guilty of consumption or abuse of inhalant or chemical materials shall be imposed a fine not to exceed One Hundred Dollars (\$100.00) and\or one (1) month in jail. The Court can order treatment or counseling.

ARTICLE 520: DISTRIBUTION AND ACQUISITION OF A DANGEROUS DRUG

1 (A) Distribution and acquisition of a dangerous drug: No person shall intentionally sell, distribute, cultivate, manufacture, or give away any drug, except as authorized by Federal law, or to acquire any such drug through means of deception, fraud, forgery, purchase, or gift.

(B) Drug shall be any mind altering drug, not allowed by Federal law, including those substances listed in 21 U.S.C Section 812 (1972), other chemicals, solvents, controlled dangerous substance, plants, natural or artificial materials or substances, not allowed by Federal law.

(C) Under this Ordinance, it is not a crime to have possession or use of peyote.

(D) Any person convicted of distribution and acquisition of a dangerous drug may be punished for a jail term not to exceed one (1) year in jail and\or a fine not to exceed Five Thousand Dollars (\$5,000.00).

#### ARTICLE 521: INTERFERENCE WITH OFFICIAL POLICE DUTIES

(A) Interference with official police duties: No person shall intentionally provide false information or make a false report to a law enforcement officer knowing that such information was false or that such a report was false.

(B) Under this Ordinance, no person shall interfere or obstruct, hinder or eavesdrop on a law enforcement officer while in the official scope of his\her duty.

(C) Punishment: Any person found guilty of interference with official police duties shall be imposed a fine not to exceed Two Hundred Dollars (\$200.00) and\or no more than one (1) month jail.

#### ARTICLE 522: ILLEGAL DUMPING OR LITTERING

1 (A) Illegal Dumping or Littering: No person shall dump any junk, materials, carcasses, hazardous waste, garbage, trash, or litter on the lands of a Tribal member without permission of that member or on land owned by the Kickapoo Tribe of Oklahoma.

(B) Punishment: Any person found guilty of illegal dumping or littering shall be punished as follows:

- (1) If a minor dumping or littering, the Court shall impose a fine not to exceed Fifty Dollars (\$50.00).
- (2) If serious in nature, the Court shall impose a fine not to exceed Five Hundred Dollars (\$500.00).

#### ARTICLE 523: DISORDERLY CONDUCT

1 (A) Disorderly conduct: Any person who intentionally creates a public inconvenience, alarm, annoyance, or creates a risk by reckless conduct, behavior, or attitude shall be guilty of disorderly conduct.

(B) Under this order Ordinance disorderly conduct shall include harassment, nuisance, threatening to fight or engage in violent actions.

(C) Under this Ordinance, disorderly conduct shall include appearing in public under intoxication to any degree, under the following conditions:

- (1) Creating noise, disrupting others, or intruding upon the privacy of a person or persons; or
- (2) lost, wandering, or confused without being able to give a reasonable account of destination to a officer; or
- (3) appearing at or in the vicinity of an area set aside for religious or ceremonial activities either by Tribe or person conducting such activity with the prohibition of no intoxicated persons or consumption of alcoholic beverages during the religious or traditional ceremony.

(D) "Public" shall mean likely to affect persons in a place to which the public or a substantial number of people have access and includes, but not limited to streets, highways, roads, businesses open to the public, office buildings, houses, and apartments.

(E) Punishment: A person found guilty of disorderly conduct shall be punished as follows:

- (1) On the first offense, a fine not to exceed One Hundred Dollars (\$100.00), and\or no more than one (1) month jail.
- (2) On the second offense, a fine not to exceed Five Hundred Dollars (\$500.00) and\or no more than three (3) months jail.
- (3) On the third offense, a fine not to exceed One Thousand Dollars (\$1,000.00) and\or no more than one (1) year jail. At any time the Court may order counseling.

#### ARTICLE 524: WEAPONS OFFENSE

1 (A) Weapons offense: No person shall intentionally be permitted to carry a dangerous weapon or firearm or conceal a dangerous weapon or firearm, without lawful authority to do so.

(B) Under this Ordinance any possession of a loaded firearm on a public road, or discharge of a loaded firearm from a vehicle, or fire a loaded firearm across or at the direction of a public road shall be a weapons offense.

(C) Punishment: Any person found guilty of weapons offense shall be punished by fine not to exceed Two Hundred Fifty Dollars (\$25.00) and\or no more than three (3) months jail.



ARTICLE 525: AGGRAVATED WEAPONS OFFENSE

1 (A) Aggravated Weapons Offense: No person shall carry a dangerous weapon concealed on the person or to threaten to use or exhibit a dangerous weapon in a dangerous and threatening manner, or use a dangerous weapon in a fight or quarrel; or possess a shotgun or rifle having a barrel or barrels of less than sixteen (16) inches in length, or an altered or modified shotgun or rifle less than twenty-four (24) inches overall length.

(B) Punishment: Any person found guilty shall be punished by fine not to exceed Five Hundred Dollars (\$500.00) and\or no more than six (6) months jail.

ARTICLE 526: ILLEGAL HUNTING OR FISHING

1 (A) Illegal hunting or fishing: No person shall intentionally hunt or fishes, on the property of another, without legal authority or permission of the land owner.

(B) Punishment: Any person found guilty of hunting or fishing on the property of another, without permission of the land owner shall be fined a amount not to exceed Three Hundred Dollars (\$300.00) and\or no more than one (1) month jail.

ARTICLE 527: SPREADING A SEXUALLY TRANSMITTED DISEASE

1 (A) Spreading a Sexually Transmitted Disease: No person shall intentionally transmit, or infect another person, with any venereal or sexually transmitted disease.

(B) Under this Ordinance, if the person has cause to believe that they may have a sexually transmitted disease and continues to engage in sexual activity with another that person is guilty of spreading a sexually transmitted disease.

(C) Upon conviction, the Court shall, have the power to order an medical examination and treatment of the convicted offender and may also order an investigation to determine to what extent others may be infected by the convicted offender.

(D) Punishment: Any person found guilty of spreading a sexually transmitted disease shall be punished a fine no more than Five Thousand Dollars (\$5,000.00) and\or no more than One (1) year in jail.

ARTICLE 528: VIOLATING A CEMETERY

1 (A) Violating a cemetery: No person shall intentionally violate a cemetery ground or remove any thing from the ground of a cemetery.

(B) Punishment: Any person found guilty of violating a cemetery shall be punished at a fine not to exceed One Thousand Dollars (\$1,000.00) dollars and/or no more than one year (1) jail.

ARTICLE 529: CRUELTY TO ANIMALS

1 (A) Cruelty to Animals: No person shall intentionally or knowingly do the following:

- (1) Torture or seriously overwork an animal.
- (2) Fail to provide necessary food, water, or shelter for a animal that one has in personal custody.
- (3) Transport or confine a animal in a cruel manner.
- (4) Kill, injure, or poison an animal in a sadistic manner for no purpose or without justification.
- (5) To have one mammal fight another.

ARTICLE 530: FIREWORKS OFFENSE

1 (A) Fireworks offense: It shall be unlawful to possess, buy, sell, distribute, transport, activate, ignite, or detonate, or to allow any minor under one's physical control or actual care, custody, to possess, buy, sell, distribute, transport, activate, ignite, or detonate any firecracker, or other firework type device which is capable of, or intended to explode, ignite, become self-propelled, give off any projectile, spark, or other ignited or fused object or manifestation, or in any way give off sound or light by virtue of its burning or exploding.

(B) Under this Ordinance, it shall not be an offense:

- (1) To use or ignite hand-held sparkler type devices in such a manner that they burn openly and singly or to use toy caps and cap guns singly in the intended fashion; or
- (2) To use or ignite fireworks at a patriotic, religious, or Tribal ceremony, gathering, or celebration in a safe manner provided that a permission has been obtained by the Police Department.
- (3) To buy, possess, use, or ignite fireworks between June 25 and July 10 inclusive of each year, provided that such devices are handled safely with regard to the safety of others and their property, and provided further, that minors under the age of twelve (12) buying possessing, using, or igniting fireworks must be under the actual direct physical supervision of some responsible adult over twenty-one (21) years of age for this exception to apply.

- (4) To possess or sell fireworks between June 25 and July 10 inclusive of each year provided that a permit to do so has been obtained from the Tribe or a lawfully authorized Tribal agency as designated by the Business Committee prior to such possession and sale, provided further, that upon proof of a secure and safe facility, such permit may state a particular location for year round storage of fireworks by a business engaged in retail or wholesale of fireworks.

(C) Punishment: A fireworks offense shall be punished by a fine not to exceed Two Hundred Dollars (\$200.00) and/or by one (1) month in jail.

AMENDMENT TO CRIMINAL CODE  
CRIMINAL VIOLATION

This new article would repeal Article 517: Public Intoxication to the following:

ARTICLE 531:       INTOXICATION

- (A) It shall be unlawful to be under the influence of an intoxicating beverage, drink, drugs, or other controlled substance having that may release vapors, to any degree, in a public place or in a private place where one unreasonably disturbs another person, under circumstances not amounting to disorderly conduct.
  
- (B) Punishment: Intoxication shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00), or by a term of imprisonment in the Tribal jail not to exceed three (3) months, or both. However, a Judge or the arresting law enforcement officer may order the release from custody and the dropping of a charge under this article if he/she believes further imprisonment is unnecessary for the protection of the individual or another and the individual is in a sober condition at the time of release. The Judge may also commit the person convicted to a facility for treatment if it appears that the person is dependent upon the intoxicating beverage, drink, drugs, controlled substance, or vapor producing substance, for a period not to exceed six (6) months in jail.

AMENDMENT TO CRIMINAL CODE  
CRIMINAL VIOLATION

This new article would replace Article 505: Perjury to the following:

ARTICLE 532: PERJURY

- 1 (A) **PERJURY:** Any person who intentionally, at a trial, hearing, investigation, deposition, under oath, or on a written document subscribes, under oath, that the following was true, when in fact the person knew such statement or written declaration was false shall be guilty of perjury.
- (B) **Punishment:** Any person found guilty of perjury shall be imposed a fine not to exceed Five Hundred Dollars (\$500.00) and/or no more than three (3) months in jail.

## CRIMINAL OFFENSES ORDINANCE

The following Section was adopted by the Kickapoo Council, at the Kickapoo Tribe of Oklahoma Council meeting of September 30, 1995, pursuant to the **Kickapoo Tribe of Oklahoma constitution and By Laws, Article XV**, and shall be codified as Article 533, of the Kickapoo Tribe of Oklahoma Criminal Offenses Ordinance.

### ARTICLE 533: DANGEROUS DRUG OFFENSE AND FORFEITURE OF PROPERTY

- (A) It shall be unlawful, except as authorized and controlled by Federal Law, to manufacture, distribute, possess with intent to distribute, dispense, create, possess, or cultivate a controlled or a counterfeit substance; or to obtain or acquire possession of a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge; or to knowingly or intentionally use any communication facility in committing any of the above prohibited acts.
- (B) Controlled or counterfeit substances shall consist of the substances listed in 18 U.S.C. 812 (19872), and any other chemical substance, natural or artificial, defined as a controlled or dangerous substance the possession, sale, distribution, or use of which is prohibited by Federal Law, except **peyote**.
- (C) A dangerous drug offense shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by a term of imprisonment in the Tribal jail not to exceed six (6) months, or both.
- (D) Any substance handled in violation of this section is hereby declared to be contraband and civil forfeiture proceedings may be had against such substance as provided by law.
- (E) Any personal property used to transport, conceal, manufacture, cultivate, or distribute the controlled dangerous substance shall be subject to forfeiture as contraband by civil proceedings as provided by law.
- (F) Any real or personal property to include cash, stocks, bonds that may be derived from the sale, distribution, transportation, manufacture, or cultivation of the controlled dangerous substance in violation of this section shall be subject to forfeiture as contraband by civil proceedings as provided by law.

**DANGEROUS DRUG OFFENSE ACT**  
**ARTICLE 53.3**  
**OF THE KICKAPOO CRIMINAL VIOLATIONS CODE**  
**DEFINITIONS;**

**2-101. DEFINITIONS**

As used in the Dangerous Drug Offense Act, Section 2-101 et seq. of this title:

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. practitioner (or, in his presence, by his authorized agent), or
  - b. the patient or research subject at the direction and in the presence of the practitioner;
1. "Agent" means a peace officer appointed by and who acts in behalf of the Chairman of The Kickapoo Tribe of Oklahoma 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 warehouseman or employee thereof, or a person required to register under the Uniform Controlled Dangerous Substances Act;
2. "Board" means the Advisory Board to the Chairman of the Kickapoo Tribe of Oklahoma;
3. "Bureau of Narcotics and Dangerous Drugs" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice;
4. "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;
5. "Commissioner" or "Director" means the Chairman of the Kickapoo Tribe of Oklahoma;
6. "Control" means to add, remove or change the placement of a drug, substance or immediate precursor under the Uniform Controlled Dangerous Substances Act;
7. "Controlled dangerous substance" means a drug, substance or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title;
8. "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;
9. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled dangerous substance, whether or not here is an agency relationship;
10. "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;
11. "Distribute" means to deliver other than by administering or dispensing a controlled dangerous substance;
12. "Distributor" means a person who distributes;
13. "Drug" means articles 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; articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; articles (other than food) intended to affect the structure or any function of the body of man or other animals; and articles intended for use as a component of any article specified in this paragraph; but does not include devices or their components, parts or accessories;
14. "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;

15. "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 Tribal or federal law related to controlled substances fraud, and
  - f. the proximity of the substances to controlled dangerous substances;
1. "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;
  2. "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;
  3. "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;
  4. "Marihuana" 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 the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination;
  5. "Medical purpose" means an intention to utilize a controlled dangerous substance for physical or mental treatment, 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;
  6. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis;
    - a. opium, coca leaves and opiates,
    - b. a compound, manufacture, salt, derivative or preparation of opium, coca leaves or opiates,
    - c. cocaine, its salts, optical and geometric isomers, and salts of isomers,
    - d. ecgonine, its derivatives, their salts, isomers and salts of isomers, and
    - e. a substance, and any compound, manufacture, salt, derivative or preparation thereof, which is chemically identical with any of the substances referred to in subparagraphs a through d of this paragraph, except that the words "narcotic drug" as used in section 2-101 et seq. of this title shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine;



1. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under the Uniform Controlled Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;
2. "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof;
3. "Peace Officer" means a police officer, sheriff, deputy sheriff, district attorney's investigator, investigator from the Office of the Attorney General, or any other person elected or appointed by law to enforce any of the criminal laws of this state or of the United States;
4. "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
5. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
6. "Practitioner" means:
  - a. a physician, dentist, podiatrist, optometrist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state;
  - b. a pharmacy, hospital, laboratory or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state;
1. "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled dangerous substance;
2. "State" means the State of Oklahoma or any other state of the United States;
3. "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household;
4. "Drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act. It includes, but is not limited to:
  - a. kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled dangerous substance or from which a controlled dangerous substance can be derived,
  - b. kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled dangerous substances,
  - c. isomerization devices used or intended for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substance,
  - d. testing equipment used or intended for use in identifying, or in analyzing the strength, effectiveness or purity of controlled dangerous substances,
  - e. scales and balances used or intended for use in weighing or measuring controlled dangerous substances,
  - f. diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, use or intended for use in cutting controlled dangerous substances,
  - g. separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana,
  - h. blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled dangerous substances,
  - i. capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled dangerous substances,
  - j. containers and other objects used or intended for use in parenterally injecting controlled dangerous substances into the human body,

- k. hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled dangerous substances into the human body, and
- l. objects used or intended for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:
  - (1) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,
  - (2) water pipes,
  - (3) carburetion tubes and devices,
  - (4) smoking and carburetion masks,
  - (5) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand,
  - (6) miniature cocaine spoons and cocaine vials,
  - (7) chamber pipes,
  - (8) carburetor pipes,
  - (9) electric pipes,
  - (10) air-driven pipes,
  - (11) chillums,
  - (12) bongs, or
  - (13) ice pipes or chillers.

Provided however, drug paraphernalia shall not include separation gins intended for use in preparing tea or spice, clamps used for constructing electrical equipment, water pipes designed for ornamentation or pipes designed for smoking tobacco;

14. "Synthetic controlled substance" means a substance that is not a controlled dangerous substance, but a substance that produces a like or similar physiological or psychological effect on the human central nervous system that currently has no accepted medical use in treatment in the United States and has a potential for abuse. The court or authority concerned with establishing that the substance is a synthetic controlled substance should consider, in addition to all other factors, the following factors as related to "representations made" in determining whether the substance is a synthetic controlled substance:
- gg. statements made by an owner or by any other person in control of the substance concerning the nature of the substance, its use or effect,
  - hh. statements made to the recipient that the substance may be resold for an inordinate profit,
  - ii. prior convictions, if any, of an owner or any person in control of the substance, under state or federal law related to controlled dangerous substances, and
  - jj. the proximity of the substance to any controlled dangerous substance;
1. "Tetrahydrocannabinols" means all substances that have been chemically synthesized to emulate the tetrahydrocannabinols of marihuana;
  2. "Isomer" means the optical isomer, except as used in subsection C of Section 2-204 of this title and paragraph 4 of subsection A of Section 2-206 of this title. As used in subsection C of Section 2-204 of this title, "isomer" means the optical, positional or geometric isomer. As used in paragraph 4 of subsection A of Section 2-206 of this title, the term "isomer" means the optical or geometric isomer; and
  3. "Hazardous materials" means materials, whether solid, liquid or gas; which are toxic to human, animal, aquatic or plant life, and the disposal of which materials is controlled by state or federal guidelines.

#### **2-101.1. DRUG PARAPHERNALIA - FACTORS USED IN DETERMINING.**

In determining whether an object is "drug paraphernalia", a court shall consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Dangerous Substances Act;
3. The proximity of the object to controlled dangerous substances;
4. The existence of any residue of controlled dangerous substances on the object;

5. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who intend to use the object to facilitate a violation of the Uniform Controlled Dangerous Substances Act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this act shall not prevent a finding that the object is drug paraphernalia;
6. Instructions, oral or written, provided with the object which either state directly or imply that the object is to be used for the consumption of controlled substances;
7. Descriptive materials accompanying the object which explain or depict its use as an object for the consumption of controlled substances;
8. The manner in which the object is displayed for sale;
9. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
10. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
11. The existence and scope of legitimate uses for the object in the community; and
12. Expert testimony concerning its use.

2-102. N/A

**2-103. AGENTS - CUSTODY OF SIDEARMS AND BADGES.**

- A. Agents appointed by the Chairman shall have the powers of peace officers generally, except that the Director may appoint special agents for specific investigatory assignments, who do not meet the age and educational requirements outlined herein and the salary provision outlined herein shall not apply to these special agents. Agents shall be at least twenty-one (21) years of age. Each entering agent shall be required to serve one (1) year in a probationary status as a prerequisite to being placed on permanent status.
- B. Agents appointed pursuant to the provisions of this section shall have the responsibility of investigating alleged violations and shall have the authority to arrest those suspected of having violated the provisions of the Dangerous Drug Offense Act.
- C. A commissioned employee of the Multi-Jurisdictional Tribal Drug Task Force shall be entitled to receive upon retirement by reason of length of service, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement.
- D. A commissioned employee of the Task Force may be entitled to receive, upon retirement by reason of disability, the continued custody and possession of the sidearm and badge carried by such employee immediately prior to retirement upon written approval of the Chairman.
- E. Custody and possession of the sidearm and badge of a commissioned employee killed in the line of duty may be awarded by the Chairman to the spouse or next of kin of the deceased employee.

2-103.1.

**2-105. DUTY OF DEPARTMENTS, OFFICERS, AGENCIES, EMPLOYEES.**

It shall be the duty of all departments, officers, agencies, and employees of the Tribe to cooperate with the Chairman, Captain of Police and Agents of The Task Force to carry out the functions of There office.

**2-106. POWERS AND DUTIES**

- A. The Chairman shall, in addition to other powers and duties vested in him:
  1. Cooperate with federal and other state and Tribal agencies in discharging his responsibilities concerning traffic in narcotics and dangerous substances and in suppressing the abuse of dangerous substances;
  2. Arrange for the exchange of information between governmental officials concerning the use and abuse of dangerous substances;
  3. Coordinate and cooperate in training programs on dangerous substances law enforcement at the local and state levels;

4. Cooperate with the Drug Task Force and The Police Department in establishing a centralized unit which will accept, catalogue, file and collect statistics, including records of drug dependent persons and other dangerous substance law offenders within the tribe, and make such information available for federal, state and local law enforcement purposes; and may collect and furnish statistics for other appropriate purposes;
5. Coordinate and cooperate in programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted.
  - A. Results, information and evidence received from the Drug Task Force relating to the regulatory functions of this act, including results of inspections conducted by that agency, may be relied upon and acted upon by the Chairman in conformance with his regulatory functions under this act.
  - B. The Chairman is further authorized and directed to:
    1. Coordinate and cooperate in educational programs designed to prevent and deter misuse and abuse of controlled dangerous substances;
    2. Promote better recognition of the problems of misuse and abuse of controlled dangerous substances within the regulated industry and among interested groups and organizations;
    3. Assist the regulated industry, interested groups and organizations in contributing to the reduction of misuse and abuse of controlled dangerous substances;
    4. Consult with interested groups and organizations to aid them in solving administrative and organizational problems;
    5. Assist in evaluating procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse and abuse of controlled dangerous substances;
    6. Disseminate the results of research on misuse and abuse of controlled dangerous substances to promote a better public understanding of what problems exist and what can be done to combat them; and
    7. Assist in the education and training of Tribal law enforcement officials in their efforts to control misuse and abuse of controlled dangerous substances.
    8. Supervise and direct agents appointed in the performance of their function of enforcement of the provisions of this act.
      - A. The Chairman is further authorized and directed to:
        4. Encourage research on misuse and abuse of controlled dangerous substances;
        5. Cooperate in establishing methods to assess accurately the effects of controlled dangerous substances and to identify and characterize controlled dangerous substances with potential for abuse;
        6. Cooperate in making studies and in undertaking programs of research to
          - a. develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this act;
          - b. determine patterns of misuse and abuse of controlled dangerous substances and the social effects thereof; and
          - c. improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled dangerous substances.
- A. The Chairman may enter into contracts with public agencies, institutions of higher education and private organizations or individuals for the purpose of conducting research, demonstrations or special projects which bear directly on misuse and abuse of controlled dangerous substances.
- B. The Chairman may enter into contracts for educational and research activities without performance bonds.
- C. The Chairman may authorize persons engaged in research or scientific activities on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are the subjects of such research.
- D. The Chairman may authorize the lawful possession, distribution and use of controlled dangerous substances by persons engaged in research or scientific activities; authorization for possession of controlled dangerous substances may be extended to persons engaged in a program of drug education or persons in the performance of an official duty. Persons who obtain this authorization shall be exempt from state prosecution for possession, distribution or use of dangerous substances to the extent authorized by the Director.

- E. The Chairman is authorized to accept gifts, bequests, devises, contributions and grants, public or private, including federal funds or funds from any other source for use in furthering the purpose of the office of the Chairman.
- F. The Chairman shall be in charge of all monies appropriated for or deposited to the credit of the office of the Chairman.
- G. The Chairman shall have the authority of a peace officer and is authorized to commission assistants of his office as peace officers.

**ARTICLE II  
STANDARDS AND SCHEDULES**

A. 2-201. Not in use at this time

**2-202. NOMENCLATURE IN SCHEDULES.**

The schedules provided in this act include the controlled dangerous substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated.

**2-203. SCHEDULE I CHARACTERISTICS.**

Schedule I includes substances with the following characteristics:

- 1. High potential for abuse;
- 2. No accepted medical use in the United States or lacks accepted safety for use in treatment under medical supervision.

**2-204. SCHEDULE I**

The controlled substances listed in this section are included in Schedule I.

A. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- 1. Acetylmethadol.
- 2. Allyprodine.
- 3. Alphacetylmethadol.
- 4. Alphameprodine.
- 5. Alphamethadol.
- 6. Benzethidine.
- 7. Betacetylmethadol.
- 8. Betameprodine.
- 9. Betamethadol.
- 10. Betaprodine.
- 11. Clonitazene.
- 12. Dextromoramide.
- 13. Dextrorphan (except its methyl ether).
- 14. Diampromide.
- 15. Diethylthiambutene.
- 16. Dimenoxadol.
- 17. Dimepheptanol.
- 18. Dimethylthiambutene.
- 19. Dioxaphetyl butyrate.
- 20. Dipipanone.
- 21. Ethylmethylthiambutene.
- 22. Etonitazene.
- 23. Etoxadine.
- 24. Furethidine.
- 25. Hydroxypethidine.
- 26. Ketobemidone.

27. Levomoramide.
  28. Levophenacymorphan.
  29. Morpheridine.
  30. Noracymethadol.
  31. Norlevorphanol.
  32. Normethadone.
  33. Norpipanone.
  34. Phenadoxone.
  35. Phenampromide.
  36. Phenomorphan.
  37. Phenoperidine.
  38. Pirintramide.
  39. Proheptazine.
  40. Properidine.
  41. Racemoramide.
  42. Trimeperidine.
- A. Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
2. Acetorphine.
  3. Acetyldihydrocodeine.
  4. Benzylmorphine.
  5. Codeine methylbromide.
  6. Codeine-N-Oxide.
  7. Cyrenorphine.
  8. Desomorphine.
  9. Dihydromorphine.
  10. Etorphine.
  11. Heroin.
  12. Hydromorphinol.
  13. Methyldesorphine.
  14. Methylhydromorphine.
  15. Morphine methylbromide.
  16. Morphine methylsulfonate.
  17. Morphine-N-Oxide.
  18. Myorphine.
  19. Nicocodeine.
  20. Nicomorphine.
  21. Normorphine.
  22. Phoclodine.
  23. Thebacon.
- A. Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
3. Methcathinone.
  4. 3, 4-methylenedioxy amphetamine.
  5. 5-methoxy-3, 4-methylenedioxy amphetamine.
  6. 3, 4, 5-trimethoxy amphetamine.
  7. Bufotenine.
  8. Diethyltryptamine.
  9. Dimethyltryptamine.
  10. 4-methyl-2, 5-dimethoxyamphetamine.
  11. Ibogaine.

12. Lysergic acid diethylamide.
  13. Marihuana.
  14. Mescaline.
  15. N-ethyl-3-piperidyl benzilate.
  16. N-methyl-3-piperidyl benzilate.
  17. Psilocybin.
  18. Psilocyn.
  19. 2, 5 dimethoxyamphetamine.
  20. 4 Bromo-2,5-dimethoxyamphetamine.
  21. 4 methoxyamphetamine.
  22. Cyclohexamine.
  23. Thiophene Analog of Phencyclidine. Also known as: 1-(1-(2-thienyl) cyclohexyl) PIPERIDINE; 2-Thienyl Analog of Phencyclidine; TPCP, TCP.
  24. Phencyclidine (PCP).
  25. Pyrrolidine Analog for Phencyclidine. Also known as 1-(1-Phenycyclohexyl) - Pyrrolidine, PCPy, PHP.
- A. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having stimulant or depressant effect on the central nervous system:
4. Fenethylline.
  5. Mecloqualone.
  6. N-ethylamphetamine.
  7. Methaqualone.

#### 2-205. SCHEDULE II CHARACTERISTICS.

Schedule II includes substances with the following characteristics:

1. High potential for abuse;
2. Currently accepted medical use in the United States, or currently accepted medical use with severe restrictions; and
3. The abuse of the substance may lead to severe psychic or physical dependence.

#### 2-206. SCHEDULE II.

The controlled substances listed in this section are included in Schedule II.

- A. Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:
1. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
  2. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph 1 of this subsection, but not including the isoquinoline alkaloids of opium.
  3. Opium poppy and poppy straw.
  4. Coca leaves except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers and salts of isomers; or any compound, mixture or preparation which contains any quantity of any of the substances referred to in this paragraph.
- A. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, ethers, and salts is possible within the specific chemical designation:
2. Alphaprodine.
  3. Anileridine.
  4. Bezitramide.
  5. Dihydrocodeine.
  6. Diphenoxylate.

7. Fentanyl.
8. Isomethadone.
9. Levomethorphan.
10. Levorphanol.
11. Metazocine.
12. Methadone.
13. Methadone - Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
14. Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid.
15. Pethidine. Meperidine.
16. Pethidine - Intermediate - A, 4-cyano-1-methyl-4-phenylpiperidine.
17. Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate.
18. Pethidine - Intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
19. Phenazocine.
20. Piminodine.
21. Racemethorphan.
22. Racemorphan.
23. Etorphine Hydrochloride salt only.
24. Alfentanil hydrochloride.
25. Levo-alphaacetylmethadol.
  - A. Any substance which contains any quantity of:
    3. Methamphetamine, including its salts, isomers, and salts of isomers.
    4. Amphetamine, its salts, optical isomers, and salts of its optical isomers.
  - A. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substances having stimulant or depressant effect on the central nervous system:
    4. Phenmetrazine and its salts.
    5. Methylphenidate.
    6. Amobarbital.
    7. Pentobarbital.
    8. Secobarbital.
    9. Tetrahydrocannabinols.

**2-207. SCHEDULE III CHARACTERISTICS.**

Schedule III includes substances with the following characteristics:

1. A potential for abuse less than the substances listed in Schedules I and II;
2. Currently accepted medical use in treatment in the United States; and
3. Abuse may lead to moderate or low physical dependence or high psychological dependence.

**2-208. SCHEDULE III.**

The controlled substances listed in this section are included in Schedule III.

- A. Unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substances or any other substance having a potential for abuse associated with a stimulant or depressant effect on the central nervous system:
  1. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid unless specifically excepted or unless listed in another schedule.
  2. Chlorhexadol.
  3. Glutethimide.
  4. Lysergic acid.
  5. Lysergic acid amide.
  6. Methprylon.
  7. Sulfondiethylmethane.
  8. Sulfonethylmethane.
  9. Sulfonmethane.
  10. Benzphetamine and its salts.



11. Chlorphentermine and its salts.
12. Clortermine.
13. Mazindol.
14. Phendimetrazine.
15. Phenylacetone (P2P).
16. 1-Phenycyclohexylamine.
17. 1-Piperidinocyclohexanecarbo nitrile (PCC).
18. Any material, compound, mixture, or preparation which contains any quantity of the following hormonal substances or steroids, including their salts, isomers, esters and salts of isomers and esters, when the existence of these salts, isomers, esters, and salts of isomers and esters is possible within the specific chemical designation:
  - a. Boldenone,
  - b. Chlorotestosterone,
  - c. Clostebol,
  - d. Dehydrochloromethyltestosterone,
  - e. Dihydrotestosterone,
  - f. Drostanolone,
  - g. Ethylestrenol,
  - h. Fluoxymesterone,
  - i. Formebolone,
  - j. Mesterolone,
  - k. Methandienone,
  - l. Methandranone,
  - m. Methandriol,
  - n. Methandrostenolone,
  - o. Methenolone,
  - p. Methyltestosterone, except as provided in subsection E of this section,
  - q. Mebolone,
  - r. Nandrolone,
  - s. Norethandrolone,
  - t. Oxandrolone,
  - u. Oxymesterone,
  - v. Oxymetholone,
  - w. Stanolone,
  - x. Stanozolol,
  - y. Testolactone,
  - z. Testosterone, except as provided in subsection E of this section, and
  - aa. Trenbolone.

Livestock implants as regulated by the Federal Food and Drug Administration shall be exempt.

- A. Nalorphine.
- B. Unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
  1. not more than one and eight-tenths (1.8) grams of codeine or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
  2. not more than one and eight-tenths (1.8) grams of codeine or any of its salts, per one hundred (100) milliliters or not more than ninety(90) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  3. not more than three hundred (300) milligrams of dihydrocodeinone or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
  4. not more than three hundred (300) milligrams of dihydrocodeinone or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

5. not more than one and eight-tenths (1.8) grams of dihydrocodeine or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  6. not more than three hundred (300) milligrams of ethylmorphine or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;
  7. not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams, or not more than twenty-five (25) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  8. not more than fifty (50) milligrams of morphine or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
- A. The Board of Pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections A and B of this section from the application of all or any part of the Uniform Controlled Dangerous Substances Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.
- B. The following hormonal substances or steroids are exempt from classification as Schedule III controlled dangerous substances:
1. Estratest, containing 1.25 mg esterified estrogen's and 2.5 mg methyltestosterone;
  2. Estratest HS, containing 0.625 mg esterified estrogen's and 1.25 mg methyltestosterone;
  3. Premarin with Methyltestosterone, containing 1.25 mg conjugated estrogen's and 10.0 mg methyltestosterone;
  4. Premarin with Methyltestosterone, containing 0.625 mg conjugated estrogen's and 5.0 mg methyltestosterone;
  5. Testosterone Cypionate-Estradiol Cypionate injection, containing 50 mg-ml Testosterone Cypionate; and
  6. Testosterone Enanthate-Estradiol Valerate injection, containing 90 mg-ml Testosterone Enanthate and 4 mg-ml Estradiol Valerate.

#### 2-209. SCHEDULE IV CHARACTERISTICS.

Schedule IV includes substances with the following characteristics:

1. Low potential for abuse relative to substances listed in Schedule III;
2. Currently accepted medical use in treatment in use in the United States; and
3. Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule III.

#### 2-210. SCHEDULE IV.

The controlled substances listed in this section are included in Schedule IV.

- A. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant or depressant effect on the central nervous system:
1. Chloral betaine.
  2. Chloral hydrate.
  3. Ethchlorvynol.
  4. Ethinamate.
  5. Meprobamate.
  6. Paraldehyde.
  7. Petrichloral.
  8. Diethylpropion.
  9. Phentermine.
  10. Pemoline.

11. Chlordiazepoxide.
12. Chlordiazepoxide and its salts, but not including chlordiazepoxide hydrochloride and clidinium bromide or chlordiazepoxide and water-soluble esterified estrogens.
13. Diazepam.
14. Oxazepam.
15. Clorazepate.
16. Flurazepam and its salts.
17. Clonazepam.
18. Barbitol.
19. Mebutamate.
20. Methohexital.
21. Methylphenobarbital.
22. Phenobarbital.
23. Fenfluramine.
24. Pentazocine.
25. Dextropropoxyphene.
26. Butorphanol.
27. Alprazolam.
28. Halazepam.
29. Lorazepam.
30. Prazepam.
31. Temazepam.
32. Triazolam.
33. Carisoprodol.
34. Ephedrine, its salts, optical isomers, and salts of optical isomers as the only active ingredient, or in combination with other active ingredients unless the combination product is:
  - a. in compliance with the pertinent federal OTC Tentative Final Monograph or Final Monograph as to dosage, labeling, and ingredient formulation, or
  - b. the drug product is marketed pursuant to a federal Food and Drug Administration-approved new drug application or its equivalent.
- A. The Board of Pharmacy may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection A of this section from the application of all or any part of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

**2-211. SCHEDULE V CHARACTERISTICS.**

Schedule V includes substances with the following characteristics:

1. Low potential for abuse relative to the controlled substances listed in Schedule IV;
2. Currently accepted medical use in treatment in the United States; and
3. Limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

**2-212. SCHEDULE V.**

The controlled substances listed in this section are included in Schedule V.

Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

1. Not more than two hundred (200) milligrams of codeine, or any of its salts, per one hundred (100) milliliters or per 100 grams.

2. Not more than one hundred (100) milligrams of dihydrocodeine, or any of its salts, per one hundred (100) milliliters or per 100 grams.
3. Not more than one hundred (100) milligrams of ethylmorphine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams.
4. Not more than two and five-tenths (2.5) milligrams of diphenoxylate and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit.
5. Not more than one hundred (100) milligrams of opium per 100 milliliters or per 100 grams.

### **PRECURSOR SUBSTANCES ACT**

#### **2-321. SHORT TITLE.**

Sections 3 through 11 of this act shall constitute a part of the Dangerous Drug Offense Act and shall be known and may be cited as the "Precursor Substances Act".

#### **2-322. PRECURSOR SUBSTANCES - LICENSE OR PERMIT.**

- A. No person or business shall possess, sell, manufacture, transfer, or otherwise furnish any of the following precursor substances without first having a permit or license issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, except as provided in Section 9 of this act:
1. D-Lysergic acid.
  2. Ergotamine and its salts.
  3. Ergonovine and its salts.
  4. Methylamine.
  5. Ethylamine.
  6. Phenyl-2-Propanone.
  7. Phenylacetic acid and its salts.
  8. Ephedrine, its salts, optical isomers and salts of optical isomers.
  9. Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers.
  10. Phenylpropanolamine, its salts, optical isomers and salts of optical isomers.
  11. Benzyl cyanide.
  12. N-methylephedrine, its salts, optical isomers and salts of optical isomers.
  13. Pseudoephedrine, its salts, optical isomers and salts of optical isomers.
  14. Chloroephedrine, its salts, optical isomers and salts of optical isomers.
  15. Piperidine and its salts.
  16. Pyrrolidine and its salts.
  17. Propionic anhydride.
  18. Isosafrole.
  19. Safrole.
  20. Piperonal.
- A. Upon completion of an application for a license pursuant to Section 5 of this act, or a permit pursuant to Section 6 of this act, the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall either grant or deny such license or permit. A denial of an application for a permit or license shall be handled as provided by Section 7 of this act.

#### **2-327. SALE OR TRANSFER OF CERTAIN NONNARCOTIC PRODUCTS.**

Sections 4 through 8 of this act shall not apply to the sale or transfer of a nonnarcotic product that includes a precursor substances defined in Section 4 of this act, if the product may be sold lawfully with a prescription or over the counter without a prescription pursuant to the Federal Food, Drug and Cosmetic Act, 21 U.S.C. Section 301 et seq., or a rule adopted pursuant thereto. Further, this act shall not apply to common carriers in the transaction of business as common carriers.

#### **2-328. VIOLATIONS - PENALTIES**

A. A person or business who manufactures, sells, transfers, furnishes, or receives a precursor substance defined in Section 4 of this act commits an offense if the person:

1. Does not comply with the requirements of Sections 4, 5 or 8 of this act; or
2. Knowingly makes a false statement in a report or record required by Section 5 or 8 of this act.

B.

C. A person who manufactures, sells, transfers, or otherwise furnishes a precursor substance defined in Section 4 of this act commits an offense if the person manufactures, sells, transfers, or furnishes the substance with the knowledge or intent that the recipient shall use the substance to unlawfully manufacture a controlled substance or a controlled substance analog.

D. A person who is required by Sections 4 or 6 of this act to have a permit for precursor substances commits an offense if the person:

1. Purchases, obtains, or possesses a precursor substance without having first obtained a permit;
2. Has in his possession or immediate control a precursor substance with no attached permit;
3. Knowingly makes a false statement in an application or report required by Sections 6 or 8 of this act; or
4. Manufactures, sells, transfers, or otherwise furnishes any person or business a precursor substance defined in Section 4 of this act, who does not have a permit.

A. An offense under subsection C or E of this section is a

### **ARTICLE IV. OFFENSES AND PENALTIES**

#### **2-401. PROHIBITED ACTS A - PENALTIES.**

A. Except as authorized by the Dangerous Drug Offense Act, Section 2- 101 et seq. of this title, it shall be unlawful for any person:

1. To distribute, dispense, transport with intent to distribute or dispense, or solicit the use of or use the services of a person less than eighteen (18) years of age to cultivate, distribute or dispense a controlled dangerous substance or possess with intent to manufacture, distribute, or dispense, a controlled dangerous substance;
2. To create, distribute, transport with intent to distribute or dispense, or possess with intent to distribute, a counterfeit controlled dangerous substance; or
3. To distribute any imitation controlled substance as defined by Section 2-101 of this title, except when authorized by the Food and Drug Administration of the United States Department of Health and Human Services.

A. Any person who violates the provisions of this section with respect to:

2. A substance classified in Schedule I or II which is a narcotic drug or lysergic acid diethylamide (LSD), upon conviction, shall be guilty of a misdemeanor
3. Any other controlled dangerous substance classified in Schedule I, II, III, or IV, upon conviction, shall be guilty of a misdemeanor
4. A substance classified in Schedule V, upon conviction, shall be guilty of a misdemeanor
5. An imitation controlled substance as defined by Section 2-101 of this title, upon conviction, shall be guilty of a misdemeanor
6. Except when authorized by the Food and Drug Administration of the United States Department of Health and Human Services, it shall be unlawful for any person to manufacture distribute, or possess with intent to distribute a synthetic controlled substance. Any person convicted of violating the provisions of this paragraph is guilty of a misdemeanor

- A. Except as authorized by the Dangerous Drug Offense Act, it shall be unlawful for any person to manufacture or attempt to manufacture any controlled dangerous substance. Any person violating the provisions of this section with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance, upon conviction, is guilty of a misdemeanor and shall be punished by imprisonment in the Tribal Jail for not more than 6 months and by a fine of not to exceed \$500.00 or both.

Any person convicted of any offense described in this section may, in addition to the fine imposed, be assessed an amount not to exceed ten percent (10%) of the fine imposed. Such assessment shall be paid into a revolving fund for enforcement of controlled dangerous substances created pursuant to Section 2-506 of this title.

- G. For purpose of this section, "public housing project" means any dwelling or accommodations operated as a state or federally subsidized multifamily housing project by any housing authority, nonprofit corporation or municipal developer or housing projects created pursuant to the Oklahoma Housing Authority Act, Section 1051 et seq. of this title.

#### **2-402. PROHIBITED ACTS B - PENALTIES.**

- A. 1. It shall be unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, except as otherwise authorized by this act.
1. It shall be unlawful for any person to purchase any preparation excepted from the provisions of the Dangerous Drug Offense Act, Section 2-101 et seq. of this title, pursuant to Section 2-313 of this title in an amount or within a time interval other than that permitted by Section 2-313 of this title.
2. It shall be unlawful for any person or business to sell, market, advertise or label any product containing ephedrine, its salts, optical isomers, or salts of optical isomers, for the indication of stimulation, mental alertness, weight loss, appetite control, muscle development, energy or other indication which is not approved by the pertinent federal OTC Final Monograph, Tentative Final Monograph, or FDA-approved new drug application or its legal equivalent. In determining compliance with this requirement, the following factors shall be considered:
- a. the packaging of the product,
  - b. the name of the product, and
  - c. the distribution and promotion of the product, including verbal representations made at the point of sale.
- A. Any person who violates this section with respect to:
2. Any Schedule I or II substance, except marihuana or a substance included in subsection D of Section 2-206, is guilty of a misdemeanor punishable by imprisonment for not more than Six months and or a fine not to exceed \$500.00
3. Any Schedule III, IV or V substance, marihuana, a substance included in subsection D of section 2-206, or any preparation excepted from the provisions of the Dangerous Drug Offense Act shall be guilty of a misdemeanor punishable by confinement for not more than 6 months and or a fine not to exceed \$500.00.

#### **2-403. PROHIBITED ACTS C - PENALTIES.**

- A. Any person found guilty of larceny, burglary or theft of controlled dangerous substances is guilty of a misdemeanor punishable by imprisonment for a period not to exceed 6 months and or a fine not to exceed \$500.00.
- Any person found guilty of robbery or attempted robbery of controlled dangerous substances from a practitioner, manufacturer, distributor or agent thereof as defined in Section 2-101 of this title is guilty of a misdemeanor punishable by imprisonment for a period of 6 months and or a fine not to exceed \$500.00

**2-404. PROHIBITED ACTS D - PENALTIES.**

- A. It shall be unlawful for any person:
  - 1. Who is subject to the requirements of Article III of this act to distribute or dispense a controlled dangerous substance in violation of Section 2-308;
  - 2. Who is a registrant to manufacture, distribute, or dispense a controlled dangerous substance not authorized by his registration to another registrant or other authorized person;
  - 3. To omit, remove, alter, or obliterate a symbol required by the Federal Controlled Substances Act or this act;
  - 4. To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this act;
  - 5. To refuse any entry into any premises or inspection authorized by this act; or,
  - 6. To keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by persons using controlled dangerous substances in violation of this act for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this act.
- A. Any person who violates this section is punishable by 6 months in the Tribal Jail and or a fine not to exceed \$500.00.

**2-405. PROHIBITED ACTS E - PENALTIES.**

- A. No person shall use tincture of opium, tincture of opium camphorated, or any derivative thereof, by the hypodermic method, either with or without a medical prescription therefor.
- B. No person shall use or possess drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act, except those persons holding an unrevoked license in the professions of podiatry, dentistry, medicine, nursing, optometry, osteopathy, veterinary medicine or pharmacy.
- C. No person shall deliver, possess or manufacture drug paraphernalia knowing it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled dangerous substance in violation of the Dangerous Drug Offense Act.
- D. Any person eighteen (18) years of age or over who violates subsection C of this section by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed \$500.00 or by a term of imprisonment in the Tribal Jail not to exceed 6 months.
- E. Any person who violates subsections A, B, C of this section shall, upon conviction, be guilty of a misdemeanor punishable by not more than 6 months and or a fine not to exceed \$500.00.

**2-406. PROHIBITED ACTS F - PENALTIES.**

- A. It shall be unlawful for any registrant knowingly or intentionally:
  - 1. To distribute, other than by dispensing or as otherwise authorized by this act, a controlled dangerous substance classified in Schedules I or II, in the course of his legitimate business, except pursuant to an order form as required by Section 2-308 of this act;
  - 2. To use in the course of the manufacture or distribution of a controlled dangerous substance a registration number which is fictitious, revoked, suspended or issued to another person;
  - 3. To acquire or obtain possession of a controlled dangerous substance by misrepresentation, fraud, forgery, deception or subterfuge;
  - 4. To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this act, or any record required to be kept by this act;

5. To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled dangerous substance.
- A. Any person who violates this section is guilty of misdemeanor and is punishable by a term not to exceed 6 months in the Tribal Jail and or a fine not to exceed \$500.00.

**2-407. PROHIBITED ACTS G - PENALTIES.**

- A. No person shall obtain or attempt to obtain any preparation excepted from the provisions of the Dangerous Drug Offense Act pursuant to Section 2-313 of this title in a manner inconsistent with the provisions of paragraph 1 of subsection B of Section 2-313 of this title, or a controlled dangerous substance or procure or attempt to procure the administration of a controlled dangerous substance:
  1. By fraud, deceit, misrepresentation, or subterfuge;
  2. By the forgery or alteration of a prescription or of any written order;
  3. By the concealment of a material fact; or
  4. By the use of a false name or the giving of a false address.
- A. information communicated to a physician in an effort unlawfully to procure a controlled dangerous substance, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.
- B. Any person who violates this section is guilty of misdemeanor and punishable by a term not to exceed 6 months in the Tribal Jail and or a fine not to exceed \$500.00.

**2-407.1. CERTAIN SUBSTANCES CAUSING INTOXICATION, DISTORTION OR DISTURBANCES OF AUDITORY, VISUAL, MUSCULAR OR MENTAL PROCESSES PROHIBITED - EXEMPTIONS - PENALTIES.**

- A. For the purpose of inducing intoxication or distortion or disturbance of the auditory, visual, muscular, or mental process, no person shall ingest, use, or possess any compound, liquid, or chemical which contains ethylchloride, butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, amyl nitrite, isopropyl nitrite, isopentyl nitrite, or mixtures containing butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, amyl nitrite, isopropyl nitrite, isopentyl nitrite, or any of their esters, isomers, or analogues, or any other similar compound.
- B. No person shall possess, buy, sell, or otherwise transfer any substance specified in subsection A of this section for the purpose of inducing or aiding any other person to inhale or ingest such substance or otherwise violate the provisions of this section.
- C. The provisions of subsections A and B of this section shall not apply to:
  1. the possession and use of a substance specified in subsection A of this section which is used as part of the care or treatment by a licensed physician of a disease, condition or injury or pursuant to a prescription of a licensed physician; and
  2. the possession of a substance specified in subsection A of this section which is used as part of a known manufacturing process or industrial operation when the possessor has obtained a permit from the State Department of Health.
- A. The State Board of Health shall promulgate rules and regulations establishing procedures for the application, form and issuance of a permit to legitimate manufacturing and industrial applicants as provided for in subsection C of this section.
- B. Any person convicted of violating any provisions of subsection A or B of this section shall be guilty of a misdemeanor punishable by not more than 6 months and or a fine not to exceed \$500.00.

**2-408. OFFER, SOLICIT, ATTEMPT, OR CONSPIRE TO COMMIT OFFENSE.**

Any person who offers, solicits, attempts, endeavors, or conspires to commit any offense defined in the Dangerous Drug Offense Act, Section 2-101 et seq. of this title shall be subject to the penalty prescribed for the offense, the commission of which was the object of the offer, solicitation, attempt, endeavor or conspiracy.



**2-409. ADDITIONAL PENALTIES.**

Any penalty imposed for violation of this article shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

**2-410. Not in use at this time**

**2-411. GENERAL PENALTY CLAUSE**

Any person who violates any provision of this act not subject to a specific penalty provision is guilty of a misdemeanor punishable by 6 months in the Tribal Jail and or a Fine not to exceed \$500.00.

**2-412. Not in use at this time**

**2-413. BAR TO PROSECUTION.**

If a violation of this act is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

**TRAFFICKING IN ILLEGAL DRUGS ACT**

**2-414. SHORT TITLE**

This act shall be known and may be cited as the "Trafficking in Illegal Drugs Act".

**2-415. APPLICATION - FINES AND PENALTIES.**

A. The provisions of the Trafficking in Illegal Drugs Act, Section 2-414 et seq. of this title, shall apply to persons convicted of violations with respect to the following substances:

1. Marihuana;
2. Cocaine or coca leaves;
3. Heroin;
4. Amphetamine or methamphetamine;
5. Lysergic acid diethylamide (LSD);
6. Phencyclidine (PCP); or
7. Cocaine base, commonly known as "crack" or "rock".

A. Except as otherwise authorized by the Dangerous Drug Offense Act, Section 2-101 et seq. of this title, it shall be unlawful for any person to:

2. knowingly distribute, manufacture, bring into this state or possess a controlled substance specified in subsection A of this section in the quantities specified in subsection C of this section; or
3. possess any controlled substance with the intent to manufacture a controlled substance specified in subsection A of this section in quantities specified in subsection C of this section; or
4. use or solicit the use of services of a person less than eighteen (18) years of age to distribute or manufacture a controlled dangerous substance specified in subsection A of this section in quantities specified in subsection C of this section.

Violation of this section shall be known as "trafficking in illegal drugs".

Any person who commits the conduct described in paragraph 1, 2 or 3 of this subsection and represents the quantity of the controlled substance to be an amount described in subsection C of this section shall be punished under the provisions appropriate for the amount of controlled substance represented, regardless of the actual amount.

C. In the case of a violation of the provisions of subsection B of this section, involving:

3. Marihuana:
  - a. twenty-five (25) pounds or more of a mixture or substance containing a detectable amount of marihuana, such violation shall be punishable by a
  - b. One thousand (1,000) pounds or more of a mixture or substance containing a detectable amount of marihuana, such violation shall be punishable by a

2. Cocaine or coca leaves:
  - b. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of cocaine or coca leaves, such violation shall be punishable by a
  - b. three hundred (300) grams or more of a mixture or substance containing a detectable amount of cocaine or coca leaves, such violation shall be punishable by
3. Heroin:
  - c. ten (10) grams or more of a mixture or substance containing a detectable amount of heroin, such violation shall be punishable by
  - d. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of heroin, such violation shall be punishable by
1. Amphetamine or methamphetamine:
  - d. twenty (20) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine, such violation shall be punishable by
  - b. two hundred (200) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine, such violation shall be punishable by
5. Lysergic acid diethylamide (LSD):
  - e. if the quantity involved is not less than fifty (50) dosage units and not more than one thousand (1,000) dosage units, such violation shall be punishable
  - f. if the quantity involved is more than one thousand (1,000) dosage units such violation shall be punishable by
1. Phencyclidine (PCP):
  - f. one (1) ounce or more of a substance containing a mixture or substance containing a detectable amount of phencyclidine (PCP), such violation shall be punishable by
  - g. eight (8) ounces or more of a substance containing a mixture or substance containing a detectable amount of phencyclidine (PCP), such violation shall be punishable by
1. Cocaine base:
  - g. five (5) grams or more of a mixture or substance described in paragraph 2 of this subsection which contains cocaine base, such violation shall be punishable by
  - h. fifty (50) grams or more of a mixture or substance described in paragraph 2 of this subsection which contains cocaine base, such violation shall be punishable by
- A. Any person who violates the provisions of this section with respect to a controlled dangerous substance specified in subsection A of this section in a quantity specified in subsection C of this section shall, in addition to any fines specified by this section, be punishable by a term of imprisonment as follows 6 months in the Tribal Jail and or a fine not to exceed \$500.00 :

**2-419. USE OF MINORS IN TRANSPORTATION, SALE, ETC. OF CONTROLLED DANGEROUS SUBSTANCE.**

- A. It shall be unlawful for any individual eighteen (18) years or more years of age to solicit, employ, hire, or use an individual under eighteen (18) years of age to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any controlled dangerous substance.
  - B. A person who violates subsection A of this section shall be guilty of a misdemeanor and upon conviction shall be punishable by a term of imprisonment, or fine, or both.
  - C. It shall not be a defense to this section that a person did not know the age of an individual.
- A. 2-420. Not in use at this time

**ARTICLE V.  
ENFORCEMENT AND ADMINISTRATIVE PROVISIONS**

**2-501. POWERS OF ENFORCEMENT PERSONNEL.**

Any peace officer may:

1. Carry firearms;
2. Execute search warrants, arrest warrants, subpoenas, and summonses issued under the authority of this Tribe;
3. Make seizures of property pursuant to the provisions of this act; and
4. Perform such other lawful duties as are required to carry out the provisions of this act.

a. **2-502. Not in use at this time**

**2-503. PROPERTY SUBJECT TO FORFEITURE.**

A. The following shall be subject to forfeiture:

1. All controlled dangerous substances which have been manufactured, distributed, dispensed, acquired, concealed or possessed in violation of the Dangerous Drug Offense Act, Section 2-101 et seq. of this title;
  2. All raw materials, products and equipment of any kind and all drug paraphernalia as defined by the Uniform Controlled Dangerous Substances Act, which are used, or intended or use, in manufacturing, compounding, processing, delivering, importing or exporting, injecting, ingesting, inhaling, or otherwise introducing into the human body any controlled dangerous substance in violation of the provisions of the Dangerous Drug Offense Act.
  3. All property which is used, or intended for use, as a container for property described in paragraphs 1 and 2 of this subsection;
  4. All conveyances, including aircraft, vehicles, vessels, or farm implements which are used to transport, conceal, or cultivate for the purpose of distribution as defined in Section 2-101 of this title, or which are used in any manner to facilitate the transportation or cultivation for the purpose of sale or receipt of property described in paragraphs 1 or 2 of this subsection or when the property described in paragraphs 1 or 2 of this subsection is unlawfully possessed by an occupant thereof, except that:
    - a. no conveyance used by a person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of the Dangerous Drug Offense Act unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of the Dangerous Drug Offense Act; and
    - b. no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of such owner, and if the act is committed by any person other than such owner the owner shall establish further that the conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state;
1. All books, records and research, including formulas, microfilm, tapes and data which are used in violation of the Act;
  2. All things of value furnished, or intended to be furnished, in exchange for a controlled dangerous substance in violation of the Act, all proceeds traceable to such an exchange, and all monies, negotiable instruments, and securities used, or intended to be used, to facilitate any violation of the Act;

3. All moneys, coin and currency found in close proximity to forfeitable substances, to forfeitable drug manufacturing or distribution paraphernalia or to forfeitable records of the importation, manufacture or distribution of substances, which are rebuttably presumed to be forfeitable under Section 2-101 et seq. of this title. The burden of proof is upon claimants of the property to rebut this presumption;
4. All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenance or improvement thereto, which is used, or intended to be used in any manner or part, to commit, or to facilitate the commission of, a violation of the Act which is punishable by imprisonment. Except that no property right, title or interest shall be forfeited pursuant to this paragraph, by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of that owner; and
5. All weapons possessed, used or available for use in any manner to facilitate a violation of the Act, Section 2-101 et seq. of this title.
  - A. Any property or thing of value of a person is subject to forfeiture if it is established by a preponderance of the evidence that such property or thing of value was acquired by such person during the period of the violation of the Act or within a reasonable time after such period and there was no likely source for such property or thing of value other than the violation of the Act.
  - B. Any property or thing of value of a person is subject to forfeiture if it is established by a preponderance of the evidence that the person has not paid all or part of a fine imposed pursuant to the provisions of Section 2-415 of this title.
  - C. All items forfeited in this section shall be forfeited under the procedures established in Section 2-506 of this title. Whenever any item is forfeited pursuant to this section, the district court of the district shall order that such item, money, or monies derived from the sale of such item be deposited by the state, county or city law enforcement agency which seized the item in the revolving fund provided for in Section 2-506 of this title; provided, such item, money or monies derived from the sale of such item forfeited due to nonpayment of a fine imposed pursuant to the provisions of Section 2-415 of this title shall be apportioned as provided in Section 2-416 of this title. Items, money or monies seized pursuant to subsections A and B of this section shall not be applied or considered toward satisfaction of the fine imposed by Section 2-415 of this title. All raw materials used or intended to be used by persons to unlawfully manufacture any controlled dangerous substance in violation of the Act shall be summarily forfeited.
  - D. The proceeds of any forfeiture of items seized by the Tribal Courts shall be distributed as follows:
    1. To the bona fide or innocent purchaser, conditional sales vendor or mortgagee of the property, if any, up to the amount of his interest in the property, when the court declaring a forfeiture orders a distribution to such person; and
    2. The balance to the Kickapoo Tribal Police Department revolving fund or the Police Department's special account, provided the Department may enter into agreements with municipal, county, state or federal law enforcement agencies, assisting in the forfeiture or underlying criminal investigation, to return to such an agency a percentage of said proceeds.

**2-503.1. TRANSACTIONS INVOLVING PROCEEDS DERIVED FROM ILLEGAL DRUG ACTIVITY PROHIBITED - PENALTIES.**

- A. It is unlawful for any person knowingly or intentionally to receive or acquire proceeds and to conceal such proceeds, or engage in transactions involving proceeds, known to be derived from any violation of the Act, Section 2-101 et seq. of this title. This subsection does not apply to any transaction between an individual and the counsel of the individual necessary to preserve the right to representation of the individual. However, this exception does not create any presumption against or prohibition of the right of the state to seek and obtain forfeiture of any proceeds derived from a violation of the Act, Section 2-101 et seq. of this title.
- B. It is unlawful for any person knowingly or intentionally to give, sell, transfer, trade, invest, conceal, transport, or maintain an interest in or otherwise make available anything of value which that person knows is intended to be used for the purpose of committing or furthering the commission of any violation of the Act, Section 2-101 et seq. of this title.

- C. It is unlawful for any person knowingly or intentionally to direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from any violation of the Act, Section 2-101 et seq. of this title.
- D. It is unlawful for any person knowingly or intentionally to conduct a financial transaction involving proceeds derived from a violation of the Act, Section 2-101 et seq. of this title, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds known to be derived from a violation of the Act, Section 2-101 et seq. of this title, or to avoid a transaction reporting requirement under state or federal law.
- E. Any person convicted of violating any of the provisions of this section is guilty of a misdemeanor and may be punished by imprisonment for not more than 6 months or by a fine of not more than \$500.00 or by both said imprisonment and fine.

**2-503.2. ASSESSMENT FOR VIOLATION OF ACT.**

**2-504. SEIZURE OF PROPERTY**

Any peace officer of this state shall seize property subject to forfeiture under this act when:

- 1. The seizure is incident to arrest or search warrant;
- 2. The property has been the subject of a prior judgment in favor of the state in an injunction or forfeiture proceeding under this act;
- 3. Probable cause exists to believe the property is dangerous to health or safety; or
- 4. Probable cause exists to believe the property has been used, or will be used, in violation of this act.

**2-505. SUMMARY FORFEITURE OF CERTAIN SUBSTANCES.**

- A. All controlled substances in Schedule I of Section 2-101 et seq. 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 that are possessed, transferred, sold, or offered for sale in violation of this act are deemed contraband and shall be seized and summarily forfeited.
- B. All hazardous materials and all property contaminated with hazardous materials described in paragraph 2 of subsection A of Section 2-503 of this title, used or intended to be used by persons to unlawfully manufacture or attempt to manufacture any controlled dangerous substance, shall be summarily forfeited to the Tribe and submitted to the Oklahoma State Bureau of Investigation for prompt destruction in accordance with state and federal laws.
- C. Species of plants from which controlled substances in Schedules I, or II of the Act, Section 2-101 et seq. of this title, may be derived which have been planted or cultivated in violation of the Act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized by peace officers, summarily forfeited, and, in lieu of the eradication procedures contained in Section 2-509 of this title, promptly cut and burned where seized or destroyed by applications of herbicides approved for such purpose by the Department of Agriculture. Spraying shall be limited to the chemical glyphosate and shall be applied directly to the plants by hand spraying from portable ground-based spray units.

**2-506. PROPERTY SEIZURE - INTENDED FORFEITURE PROCEEDING - CLAIM TO PROPERTY - HEARING - EVIDENCE AND PROOF - PROCEEDS OF SALE.**

- A. Any peace officer of this state shall seize the following property:
  - 1. Any property described in paragraph 4 or 6 of subsection A of section 2-503 of this title. Such property shall be held as evidence until a forfeiture has been declared or release ordered;
  - 2. Any property described in subsection B of Section 2-503 of this title; or
  - 3. Any property described in subsection C of Section 2-503 of this title.
- A. Notice of seizure and intended forfeiture proceeding shall be filed in the office of the clerk of the district court wherein such property is seized and shall be given all owners and parties in interest.
- B. Notice shall be given by the agency seeking forfeiture according to one of the following methods:
  - 1. Upon each owner or party in interest whose right, title or interest is of record, by mailing a copy of the notice by certified mail to the address as given upon the records.

2. Upon each owner or party in interest whose name and address is known to the attorney in the office of the agency prosecuting the action to recover unpaid fines, by mailing a copy of the notice by registered mail to the last-known address; or
3. Upon all other owners or interested parties, whose addresses are unknown, but who are believed to have an interest in the property, by one publication in a newspaper of general circulation in the county where the seizure was made.
  - A. Within sixty (60) days after the mailing or publication of the notice, the owner of the property and any other party in interest or claimant may file a verified answer and claim to the property described in the notice of seizure and of the intended forfeiture proceeding.
  - B. If at the end of sixty (60) days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and shall order the property forfeited to the Tribe, if such fact is proved.
  - C. If a verified answer is filed, the forfeiture proceeding shall be set for hearing.
  - D. At a hearing in a proceeding against property described in paragraphs 4 and 6 of subsection A or subsections Band C of Section 2-503 of this title, the requirements set forth in said paragraph or subsection, respectively, shall be satisfied by the Tribe by a preponderance of the evidence.
  - E. The claimant of any right, title or interest in the property may prove his lien, mortgage or conditional sales contract to be a bona fide or innocent ownership interest and that his right, title or interest was created without any knowledge or reason to believe that the property was being, or was to be, used for the purpose charged.
  - F. In the event of such proof, the court shall order the property released to the bona fide or innocent owner, lien holder, mortgagee or vendor if the amount due him is equal to, or in excess of, the value of the property as of the date of the seizure, it being the intention of this section to forfeit only the right, title or interest of the purchaser.
  - G. If the amount due to such person is less than the value of the property, or if no bona fide claim is established, the property shall be forfeited to the state and sold under judgment of the court, as on sale upon execution, and as provided for in Section 2-508 of this title, except as otherwise provided for in Section 2-503 of this title.
  - H. Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the office of the district attorney of the county wherein the property was seized, subject only to the orders and decrees of the court or the official having jurisdiction thereof, said official shall maintain a true and accurate inventory and record of all such property seized under the provisions of this section. The provisions of this subsection shall not apply to property taken or detained by the Police Department, Subject to the provisions of subsections E and F of Section 2-503 of this title.
  - I. The proceeds of the sale of any property not taken or detained by the Police Department shall be distributed as follows, in the order indicated:
    1. To the bona fide or innocent purchaser, conditional sales vendor or mortgagee of the property, if any, up to the amount of his interest in the property, when the court declaring the forfeiture orders a distribution to such person;
    2. To the payment of the actual expenses of preserving the property and legitimate costs related to the civil forfeiture proceedings; and
    3. The balance to a revolving fund in the office of the Tribal treasurer wherein the property was seized, said fund to be used as a revolving fund solely for enforcement of controlled dangerous substances laws, drug abuse prevention and drug abuse education, or any lawful purpose. Provided, one hundred percent (100%) of the balance of the proceeds of such sale of property forfeited due to nonpayment of a fine imposed pursuant to the provisions of Section 2-415 of this title shall be apportioned as provided in Section 2-416 of this title. Said revolving fund shall be audited by the Tribal Auditor and Inspector at least every two (2) years. The Police Department may enter into agreements with municipal, county or state agencies to return to such an agency a percentage of proceeds of the sale of any property seized by the agency and forfeited under the provisions of this section. Any agency that receives proceeds from an asset distribution shall maintain a true and accurate record of all such assets.

- A. Whenever any vehicle, airplane or vessel is forfeited under this act, Section 2-101 et seq. of this title, the district court of jurisdiction may order that the vehicle, airplane or vessel seized may be retained by the Tribal law enforcement agency which seized the vehicle, airplane or vessel for its official use.
- B. If the court finds that the Tribe failed to satisfy the required showing provided for in subsection G of this section, the court shall order the property released to the owner or owners.
- C. Except as provided for in subsection Q of this section, a bona fide or innocent owner, lien holder, mortgagee or vendor that recovers property pursuant to this section shall not be liable for storage fees.
- D. Except as provided for in subsection Q of this section, storage fees shall be paid by the agency which is processing the seizure and forfeiture from funds generated by seizure and forfeiture actions.
- E. The bona fide or innocent owner, lien holder, mortgagee or vendor shall reclaim subject seized property within thirty (30) days of written notice from the seizing agency. If such person fails to reclaim the property either the thirty-day time period, then the storage fees may be assessed against their secured interest.

**2-507. ITEMIZATION AND SUBMISSION FOR DESTRUCTION.**

Any peace officer of this Tribe seizing any of the property described in subparagraphs 1 and 2 of Section 2-503 shall cause a written inventory to be made and maintain custody of the same until all legal actions have been exhausted unless such property has been placed in lawful custody of a court or state or federal law enforcement agency. After all legal actions have been exhausted with respect to such property, the property shall be surrendered to the Police Department for proper destruction. All property shall be accompanied with a written inventory on form to be furnished by the Police Department.

**2-508. DISPOSITION OF SEIZED PROPERTY.**

**2-509. ERADICATION, CULTIVATION OR PRODUCTION OF PLANTS - SUSPENDED OR DEFERRED SENTENCES AND PROBATION PROHIBITED.**

- 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 Tribe is to control and eradicate these species of the plants.
- 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, he shall destroyed or eradicated by either cutting and burning or by applications of herbicides approved for such purpose by the Department of Agriculture.
- D. Knowingly violating the provisions of subsection B of this section is hereby declared, as to the owner, or person in possession of such lands, to be a misdemeanor and punishable by a term in the Tribal Jail not to exceed 6 months and or a fine not to exceed \$500.00.
- E. Any application of herbicides authorized by this section shall be made pursuant to the provisions of Section 2-505 of this title.
- F. 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 Act may be derived, may be disposed of pursuant to the provisions of subsection C of Section 2-505 of this title.