

ENGROSSED HOUSE
BILL NO. 1024

BY: HAMILTON (Jeff), ADAIR,
BOYD, BRYANT, COLEMAN,
GREENWOOD, MADDOX (Jim),
POPE, STANLEY, TYLER and
VAUGHN (Ray) of the
HOUSE

and

HERBERT of the SENATE

AN ACT RELATING TO PUBLIC HEALTH AND SAFETY; AMENDING
SECTION 4, CHAPTER 259, O.S.L. 1989 (63 O.S. SUPP.
1990, SECTION 2-418), WHICH RELATES TO CERTAIN
DISTRIBUTION OF CONTROLLED SUBSTANCE; PROVIDING
INCREASED PENALTIES FOR DISTRIBUTION OF CONTROLLED
SUBSTANCES ON OR NEAR PARKS OR RECREATION CENTERS;
RESTRICTING USE OF CERTAIN DEFENSE; AMENDING 63
O.S. 1981, SECTION 2-401, AS LAST AMENDED BY
SECTION 6, CHAPTER 232, O.S.L. 1990 (63 O.S. SUPP.
1990, SECTION 2-401), WHICH RELATES TO PROHIBITED
ACTS INVOLVING CONTROLLED DANGEROUS SUBSTANCES;
MODIFYING PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY Section 4, Chapter 259, O.S.L.
1989 (63 O.S. Supp. 1990, Section 2-418), is amended to read as
follows:

Section 2-418. A. Any person who violates Section 2-401 of
Title 63 of the Oklahoma Statutes, by distributing a controlled

substance to an individual, in or on, or within one thousand (1,000) feet of the real property comprising a public or private elementary or secondary school, public vocational school, or a public or private college or university, or a recreation center or a public park including state parks and recreation areas shall be guilty of a felony and upon conviction shall be punishable by a term of imprisonment, or fine, or both, not exceeding twice that otherwise authorized by the applicable section of law and shall serve a minimum of fifty percent (50%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence.

B. A person who violates subsection A of this section after a previous conviction pursuant to that subsection which has become final, shall be punishable by a term of imprisonment not exceeding three times that otherwise authorized by the applicable section of law and shall serve a minimum of ninety percent (90%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence.

C. It shall not be a defense to prosecution for a violation of this section that the violator was unaware that the prohibited conduct took place while on or within one thousand (1,000) feet of any school property or while on recreation center grounds or on public park grounds including state parks and recreation areas.

SECTION 2. AMENDATORY 63 O.S. 1981, Section 2-401, as last amended by Section 6, Chapter 232, O.S.L. 1990 (63 O.S. Supp. 1990, Section 2-401), is amended to read as follows:

Section 2-401. A. Except as authorized by the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, it shall be unlawful for any person:

1. To distribute, dispense, or solicit the use of or use the services of a person less than eighteen (18) years of age to distribute or dispense a controlled dangerous substance or possess

with intent to manufacture, distribute, or dispense, a controlled dangerous substance;

2. To create, distribute, 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.

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

1. 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 felony and shall be sentenced to a term of imprisonment for not less than five (5) years nor more than life and a fine of not more than One Hundred Thousand Dollars (\$100,000.00). Said sentence shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation except when the conviction is for a first offense;

2. Any other controlled dangerous substance classified in Schedule I, II, III, or IV, upon conviction, shall be guilty of a felony and shall be sentenced to a term of imprisonment for not less than two (2) years nor more than life and a fine of not more than Twenty Thousand Dollars (\$20,000.00). Said sentence shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation except when the conviction is for a first offense;

3. A substance classified in Schedule V, upon conviction, shall be guilty of a felony and shall be sentenced to a term of imprisonment for not more than five (5) years and a fine of not more than One Thousand Dollars (\$1,000.00);

4. An imitation controlled substance as defined by Section 2-101 of this title, upon conviction, shall be guilty of a

misdemeanor and shall be sentenced to a term of imprisonment in the county jail for a period of not more than one (1) year and a fine of not more than One Thousand Dollars (\$1,000.00). A person convicted of a second violation of the provisions of this paragraph shall be guilty of a felony and shall be sentenced to a term of imprisonment for not more than five (5) years and a fine of not more than Five Thousand Dollars (\$5,000.00); or

5. 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 felony and shall be punished by imprisonment in the State Penitentiary for a term not to exceed life and a fine of not more than Twenty-five Thousand Dollars (\$25,000.00). A second or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by imprisonment in the State Penitentiary for a term not less than ten (10) years and more than life and a fine of not more than One Hundred Thousand Dollars (\$100,000.00).

C. Any person convicted of a second or subsequent felony violation of the provisions of this section, except for paragraphs 4 and 5 of subsection B of this section, shall be punished by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized. Convictions for second or subsequent violations of the provisions of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation.

D. Any person who is at least eighteen (18) years of age and who violates the provisions of this section by using or soliciting the use of services of a person less than eighteen (18) years of age to distribute or dispense a controlled dangerous substance or by

distributing a controlled dangerous substance to a person under eighteen (18) years of age is punishable by twice the fine and by twice the imprisonment otherwise authorized.

E. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to manufacture or attempt to manufacture any controlled dangerous substance. 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 felony and shall be punished by imprisonment in the State Penitentiary for not less than twenty (20) years nor more than life without parole and a fine of not less than Fifty Thousand Dollars (\$50,000.00). Said sentence shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation.

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.

SECTION 3. This act shall become effective September 1, 1991.

Passed the House of Representatives the 11th day of March, 1991.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1991.

President of the Senate

