

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

CONFERENCE COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 2382

By: Pettigrew of the House

and

Robinson and Monson of the  
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public health and safety; creating the Oklahoma Trauma Care Systems and Improvement Act; providing short title; stating legislative findings and declarations; defining terms; providing for promulgation of rules by the State Board of Health; specifying contents of rules; providing for appointment of an Oklahoma Trauma Care Systems and Improvement Advisory Council; providing for terms of members; providing for reappointment of members; providing for reimbursement of the council; providing for duties of council; requiring council meetings be conducted in accordance with the Oklahoma Open Meeting Act; providing for recognition of specified regions by the State Department of Health; providing for establishment of a regional trauma advisory board for specified purpose; providing for designation of advisory board members; establishing maximum number of advisory board members; providing for receipt of funding for specified purpose; authorizing appointment of a Medical Audit Committee for specified purpose; requiring provision of funding and administrative support; requiring certain reports; providing for confidentiality of certain proceedings and records; providing for recognition and certification of trauma transfer and referral centers in specified counties; requiring promulgation of specified rules; requiring submission by specified date; requiring annual reimbursement as funding is available; specifying components of trauma care system; amending 63 O.S. 2001, Section 330.97, as renumbered by Section 11, Chapter 374, O.S.L. 2002, and as amended by Section 1, Chapter 367, O.S.L. 2003 (63 O.S. Supp. 2003, Section 1-2522), which relates to the Trauma Care Assistance Revolving Fund; modifying transfers to the Trauma Care Assistance Revolving Fund; specifying funding distribution under certain circumstances; providing for annual transfer of specified amount from fund to the Oklahoma Health Care Authority; specifying use of transferred funds; amending 21 O.S. 2001, Section 1220, as amended by Section 1, Chapter 30, O.S.L. 2003 (21 O.S. Supp. 2003, Section 1220), which relates to transporting intoxicating beverage or low-point beer; requiring

payment of special assessment fee; amending 28 O.S. 2001, Section 153, as last amended by Section 23 of Enrolled House Bill 2725 of the 2nd Session of the 49th Legislature, which relates to fees of court clerks; requiring payment of special assessment fee for certain convictions; providing for deposit of certain funds in Trauma Care Assistance Revolving Fund; amending 47 O.S. 2001, Section 6-212, as amended by Section 5, Chapter 474, O.S.L. 2002 (47 O.S. Supp. 2003, Section 6-212), which relates to cancellation, suspension, or revocation of driver license; requiring payment of special assessment fee under certain circumstances; amending 63 O.S. 2001, Sections 2-401, as last amended by Section 2, Chapter 437, O.S.L. 2003, 2-402, 2-404, 2-405, 2-406, 2-407, 2-407.1 and 2-415, as amended by Section 1, Chapter 135, O.S.L. 2002 (63 O.S. Supp. 2003, Sections 2-401 and 2-415), which relate to the Uniform Controlled Dangerous Substances Act; requiring payment of special assessment fee for certain convictions; amending 47 O.S. 2001, Section 11-1112, as last amended by Section 1 of Enrolled Senate Bill No. 1224 of the 2nd Session of the 49th Oklahoma Legislature; which relates to child restraint devices; requiring payment of special assessment for certain convictions; providing for codification; providing for recodification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2530 of Title 63, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 10 of this act shall be known and may be cited as the "Oklahoma Trauma Care Systems and Improvement Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2530.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Legislature hereby finds and declares that:

1. Traumatic injury is the leading cause of death for persons under forty (40) years of age, and the third leading cause of death overall for persons of all ages. Traumatic injury is the leading cause of lost years of potential life for Oklahomans sixty-five (65) years of age and younger;

2. In addition to the physical and emotional losses that result from traumatic injury, the economic costs of such injuries, which include lost wages, medical expenses and indirect costs, far exceed losses for other diseases such as cancer, heart disease, stroke and diabetes;

3. Trauma systems dramatically reduce morbidity and mortality from major injuries; and

4. Development and improvement of trauma systems is beneficial to all citizens.

B. In order to improve the health and well-being of the people of the state, it is necessary to improve and further develop trauma systems by encouraging hospitals and emergency medical service providers to provide an organized system of trauma care.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2530.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Trauma Care Systems and Improvement Act:

1. "Ambulance" means any ground, air or water vehicle operated by an ambulance service licensed pursuant to the provisions of Section 1-2513 of Title 63 of the Oklahoma Statutes;

2. "Ambulance service" means any private firm or governmental agency which is licensed by the State Department of Health to provide levels of medical care based on certification standards promulgated by the State Board of Health;

3. "Board" means the State Board of Health;

4. "Classification" means an inclusive standardized identification of stabilizing and definitive emergency services provided by each hospital that treats emergency patients;

5. "Commissioner" means the State Commissioner of Health;

6. "Council" means the Oklahoma Trauma Systems Improvement and Development Advisory Council;

7. "Department" means the State Department of Health;

8. "Emergency medical care" means bona fide emergency services provided after the sudden onset of a medical or traumatic condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

- a. placing the patient's health in serious jeopardy,
- b. serious impairment to bodily functions, or
- c. serious dysfunction of any bodily organ or part;

9. "Hospital" means a hospital licensed pursuant to Section 1-704 of Title 63 of the Oklahoma Statutes;

10. "Regional trauma care system" means an arrangement of available resources that are coordinated for the effective delivery of emergency trauma services within a geographic region consistent with an established plan;

11. "Trauma and emergency operative services facility" means a hospital that is classified and recognized by the Department as providing emergency trauma and operative surgical services on a twenty-four-hour basis;

12. "Trauma patient" means a severely or seriously injured person who has been:

- a. evaluated by a physician, a registered nurse, or emergency medical services personnel, and
  - b. found to require medical care in a hospital classified as a trauma and emergency operative services facility;
- and

13. "Trauma services" includes services provided to a severely or seriously injured patient.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2530.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Health shall promulgate rules establishing minimum standards and objectives to implement the

development, regulation and improvement of trauma systems on a statewide basis. Rules shall provide for the classification of trauma and emergency care provided by all hospitals and for triage, transport and transfer guidelines. The State Board of Health shall consider guidelines developed by the American College of Surgeons in promulgating rules under this section.

B. The rules shall provide specific requirements for the distribution of trauma patients, ensure that trauma care is fully coordinated with all hospitals and emergency medical services in a regional area, and reflect the geographic areas of the state, considering time and distance.

C. The rules shall include:

1. Prehospital care management guidelines for triage and transport of trauma patients;

2. Establishment of referral patterns of trauma patients and geographic boundaries regarding trauma patients;

3. Requirements for licensed hospitals providing trauma and emergency operative services to provide quality care to trauma patients referred to these facilities;

4. Minimum requirements for resources and equipment needed by a trauma and emergency operative services facility to treat trauma patients;

5. Minimum standards for the availability and qualifications of health care personnel, including physicians and surgeons, treating trauma patients within a hospital;

6. Minimum requirements for data collection including, but not limited to, trauma incidence reporting, system operation and patient outcome, and continuous quality improvement activities;

7. Minimum requirements for periodic performance evaluation of the system and its components through continuous quality improvement activities;

8. Minimum requirements for reviews of trauma patient transfers by a medical audit committee appointed by the State Commissioner of Health;

9. Requirements that hospitals not refuse to accept the transfer of a trauma patient from another facility solely because of the person's inability to pay for services or because of the person's age, sex, race, religion or national origin; and

10. Requirements for transferring hospitals to enter into reciprocal agreements with receiving hospitals that specify the transferring hospital will accept the return transfer of trauma patients at such time as the hospital has the capability and capacity to provide care; provided, however, such reciprocal agreements shall not incorporate financial provisions for transfers.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2530.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created until July 1, 2010, in accordance with the Oklahoma Sunset Law, the "Oklahoma Trauma Care Systems and Improvement Advisory Council". The Council shall be responsible for making recommendations to the Commissioner of Health and the State Board of Health on the development and implementation of a comprehensive trauma care system for the State of Oklahoma pursuant to Section 4 of this act. The Council shall oversee and evaluate all aspects of the development and implementation of a trauma care system and report findings and recommendations in the form of rules or amendments for rules to the Commissioner and the Board.

B. The Council shall consist of fifteen (15) members as follows:

1. The Speaker of the House of Representatives shall appoint:
  - a. a licensed physician who is an emergency medical services medical director,

- b. a representative of a licensed hospital that is classified as providing trauma and emergency operative services in a rural community,
  - c. an administrative director of a licensed ambulance service,
  - d. an orthopedic surgeon with privileges at a licensed hospital classified as providing trauma and emergency services, and
  - e. an emergency medical technician who is employed by a provider of emergency medical services;
2. The President Pro Tempore of the Senate shall appoint:
- a. a licensed physician who is a pediatrician with privileges at a licensed hospital classified as providing trauma and emergency operative services,
  - b. a representative of a licensed hospital that is classified as providing trauma and emergency operative services in an urban community,
  - c. a representative from a rehabilitation facility,
  - d. a board-certified emergency physician, and
  - e. a hospital administrator from a licensed hospital classified as a level I or II trauma and emergency services operative services facility; and
3. The Governor shall appoint:
- a. a trauma surgeon with privileges at a licensed hospital classified as providing trauma and emergency operative services,
  - b. a trauma registrar of a licensed hospital that is classified as providing trauma and emergency operative services,
  - c. a faculty member from a state university college of public health,

- d. a representative from the Department of Public Safety,  
and
- e. a representative of the general public who is not  
qualified to serve under the provisions of this  
section.

C. 1. In addition to other powers and duties of the Council specified by law, the Council shall recommend rules of practice and procedure applicable to proceedings before the Council.

2. Recommendations to the State Board of Health shall be in writing and concurred upon by at least five members of the Council.

3. The Council shall have the authority and the discretion to provide a public forum for the discussion of issues it considers relevant to the trauma care system of the state, and to:

- a. pass nonbinding resolutions expressing the sense of  
the Council,
- b. make recommendations to the State Department of Health concerning the need and the desirability of conducting public meetings, workshops, and seminars,
- c. periodically review Department rules relating to the Oklahoma Trauma Systems Improvement and Development Act and may recommend changes in those rules to the Commissioner, and
- d. reassess as necessary the need to modify trauma care systems in all regions of the state and receive recommendations forwarded by regional trauma advisory boards.

4. Before recommending any permanent rules, or any amendment or repeal of a rule to the State Board of Health, the Council shall hold a public rulemaking hearing. The Council shall have full authority to conduct such hearings.

D. The Council shall meet in accordance with the Oklahoma Open Meeting Act.



E. The Advisory Council shall meet on at least a quarterly basis and shall annually elect from among its members a chair. The Council may appoint subcommittees it deems necessary to assist in its duties. A simple majority of the Council shall constitute a quorum at any meeting.

F. Members of the Council shall serve without compensation but shall be reimbursed by the State Department of Health for travel expenses related to their service as authorized by the State Travel Reimbursement Act.

G. Staff support and meeting rooms for the Council shall be provided by the State Department of Health.

H. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years so that only one term expires each calendar year. Subsequent appointments shall be for three-year terms. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled by the original appointing authority.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2530.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Each geographic region identified in the statewide trauma systems plan that has a functioning trauma system, as determined by the Oklahoma Trauma Care Systems and Improvement Advisory Council, shall be recognized by the State Department of Health.

B. Licensed hospitals and ambulance services in these regions shall establish a regional trauma advisory board to represent the region and conduct continuous quality improvement activities of the system for the region. Regional trauma advisory board members shall be designated by the licensed hospitals and ambulance service providers in the region based on a procedure approved by the Oklahoma Trauma Care Systems and Improvement Advisory Council. Regional trauma advisory board members shall be individuals who

provide trauma services in the regional system or individuals employed by licensed hospitals or ambulance service providers in the region. The maximum number of board members for any region shall be twenty.

C. As funds are available, the Department of Health may contract with regional trauma advisory boards to support their administrative and continuous quality improvement activities.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2530.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Commissioner of Health shall appoint a Medical Audit Committee composed of licensed physicians to conduct periodic reviews of trauma patient care and to review continuous quality improvement activities of the regional trauma advisory boards.

B. The State Department of Health shall provide funding for the activities of this committee and provide administrative support.

C. The committee shall provide reports to the State Commissioner of Health for consideration and action. These reports shall not be publicly disclosed.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2530.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The proceedings and records of trauma patient care reviews and continuous quality improvement activities conducted by regional trauma advisory boards and the Medical Audit Committee are confidential and not subject to disclosure by court subpoena or otherwise.

B. The records and proceedings of these meetings may be used by the Medical Audit Committee, regional trauma advisory boards, and the State Commissioner of Health only in the exercise of proper quality review functions to improve trauma patient care.

C. Meetings of the Medical Audit Committee and regional advisory boards where trauma patient care reviews are conducted are not public meetings and are not subject to the provisions of the Oklahoma Open Meeting Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2530.8 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Health shall recognize and certify trauma transfer and referral centers in counties with populations in excess of three hundred thousand (300,000) persons for the purpose of directing ambulance patients to facilities with the clinical capacity and capability to appropriately care for the emergent medical needs of the patient.

B. The State Board of Health shall promulgate rules establishing minimum certification standards for these centers which shall include, but not be limited to, staff certification, data management and communications equipment, medical control and oversight, record keeping, quality improvement activities, and such other issues as the State Commissioner of Health deems appropriate.

C. Certified centers shall submit data as required by the Department to the Medical Audit Committee for the purpose of trauma system continuous quality improvement activities. Such reports shall be confidential as provided in Section 8 of this act.

D. The State Board of Health shall promulgate rules requiring emergency medical services providers to contact the appropriate regional trauma transfer and referral center while transporting patients into or within that region in order to ensure that patients are directed to the appropriate hospital based on the regional plan and the current capability and capacity of hospitals in the system.

E. As funding is available, the Department may reimburse operators of certified trauma transfer and referral centers for the operations of the centers on an annual basis.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-2530.9 of Title 63, unless there is created a duplication in numbering, reads as follows:

For the purpose of the Oklahoma Trauma Care Systems and Improvement Act, a comprehensive trauma care system shall include, but not be limited to, the following components:

1. Level IV trauma facilities which provide emergency medical services on a twenty-four-hour-a-day basis by employing at a minimum one of the following on-site medical service providers:

- a. a physician licensed pursuant to the laws of this state,
- b. a registered nurse,
- c. a licensed practical nurse, or
- d. an intermediate or paramedic level emergency medical technician;

2. Level III trauma facilities which provide emergency medical services with an organized trauma service and emergency department consisting of a physician and nursing staff with special capabilities in trauma care who are on site twenty-four (24) hours a day. Medical staff providing general surgery and anesthesiology services shall be available either on duty or on call;

3. Level II trauma facilities which provide emergency medical services with an organized trauma service and emergency department consisting of a physician and nursing staff with special capabilities in trauma care who are on site twenty-four (24) hours a day. Medical staff providing general surgery, anesthesiology and neurosurgery services shall be available on-site or on call twenty-four (24) hours a day. In addition, services from an extensive group of clinical specialties including cardiology, internal medicine, orthopedics and obstetrics/gynecology shall be available on call on a prompt basis;

4. Level I trauma facility which provides emergency medical services with an organized trauma service and emergency department consisting of a physician and nursing staff with special capabilities in trauma care who are on site twenty-four (24) hours a day. Medical staff providing general surgery, anesthesiology and neurosurgery services shall be available on-site or on call twenty-four (24) hours a day. In addition, clinical services and specialties such as nuclear diagnostic imaging, cardiac surgery, hand surgery, and infectious disease specialists shall also be available on a prompt basis;

5. Prehospital and hospital triage, transport and transfer guidelines or rules promulgated by the State Board of Health; and

6. Regional systems of emergency hospital care. Regional advisory councils shall be designated by the State Department of Health and composed of trauma care service providers, trauma survivors, government representatives, insurance representatives and the media who shall assist with the planning and implementation of the trauma care system in their region of the state.

SECTION 11. AMENDATORY 63 O.S. 2001, Section 330.97, as renumbered by Section 11, Chapter 374, O.S.L. 2002, and as amended by Section 1, Chapter 367, O.S.L. 2003 (63 O.S. Supp. 2003, Section 1-2522), is amended to read as follows:

Section 1-2522. A. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Trauma Care Assistance Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from monies apportioned thereto for purposes of this section.

B. Annually, up to one-third (1/3) of the monies accumulated in the Trauma Care Assistance Revolving Fund may be transferred to the Oklahoma Health Care Authority by order of the State Commissioner of Health. The Oklahoma Health Care Authority shall use these funds

with federal matching funds to reimburse hospitals, ambulance services and physicians for trauma care provided to severely injured patients who are participants in Medicaid.

C. All remaining monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department as follows:

1. Ninety percent (90%) of such monies shall be used to reimburse recognized trauma facilities and licensed ambulance services for uncompensated trauma care expenditures as documented in the statewide emergency medical services and trauma analysis system developed pursuant to the provisions of Section 1-2511 of this title; provided, however, any monies used for the treatment of Medicaid eligible patients that are subsequently used to establish federal matching fund requirements shall also be reimbursed to eligible trauma facilities and, licensed ambulance services and physicians; and

2. Ten percent (10%) of such monies shall be used by the Department in the furtherance of its powers and duties set forth in the Oklahoma Emergency Response Systems Development Act.

D. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

~~B.~~ E. The State Board of Health shall establish by rule a formula and procedure for the distribution of funds for uncompensated trauma care that shall provide for the allocation of funds to hospitals and, ambulance services and physicians. If the fund does not cover all costs of the uncompensated care provided, the rules shall require a higher pro rata share of the funds to be distributed to hospitals classified as providing Level I or Level II trauma and emergency operative services.

SECTION 12. AMENDATORY 21 O.S. 2001, Section 1220, as amended by Section 1, Chapter 30, O.S.L. 2003 (21 O.S. Supp. 2003, Section 1220), is amended to read as follows:

Section 1220. A. 1. It shall be unlawful for any person to knowingly transport in any moving vehicle upon a public highway, street or alley any intoxicating beverage or low-point beer, as defined by Sections 163.1 and 163.2 of Title 37 of the Oklahoma Statutes, except in the original container which shall not have been opened and from which the original cap or seal shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion.

2. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than Fifty Dollars (\$50.00). Any person convicted of violating any provision of this subsection shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes.

~~B.~~ 3. The provisions of this subsection ~~A of this section~~ shall not apply to the passenger area of buses and limousines; however, it shall be unlawful for the driver of the bus or limousine to consume or have in the driver's immediate possession any intoxicating beverage or low-point beer.

~~C.~~ B. No city, town, or county may adopt any order, ordinance, rule or regulation concerning the consumption or serving of intoxicating beverages or low-point beer in buses or limousines.

~~D.~~ C. As used in this section:

1. "Bus" means a vehicle as defined in Section 1-105 of Title 47 of the Oklahoma Statutes chartered for transportation of persons for hire. It shall not mean a school bus, as defined by Section 1-160 of Title 47 of the Oklahoma Statutes, transporting children or a vehicle operated pursuant to a franchise with a city or town operating over a regularly scheduled route; and

2. "Limousine" means a chauffeur-driven motor vehicle, other than a bus or taxicab, as defined by Section 1-174 of Title 47 of the Oklahoma Statutes, designed and used for transportation of persons for compensation.

SECTION 13. AMENDATORY 28 O.S. 2001, Section 153, as last amended by Section 23 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 153. A. The clerks of the courts shall collect as costs in every criminal case for each offense of which the defendant is convicted, irrespective of whether or not the sentence is deferred, the following flat charges and no more, except for standing and parking violations and for charges otherwise provided for by law, which fee shall cover docketing of the case, filing of all papers, issuance of process, warrants, orders, and other services to the date of judgment:

1. For each defendant convicted of exceeding the speed limit by at least one (1) mile per hour but not more than ten (10) miles per hour, whether charged individually or conjointly with others..... \$77.00
2. For each defendant convicted of a misdemeanor traffic violation other than an offense provided for in paragraph 1 or 5 of this subsection, whether charged individually or conjointly with others..... ~~\$88.00~~



\$98.00

3. For each defendant convicted of a misdemeanor, other than for driving under the influence of alcohol or other intoxicating substance or an offense provided for in paragraph 1 or 2 of this subsection, whether charged individually or conjointly with others..... ~~\$83.00~~  
\$93.00
4. For each defendant convicted of a felony, other than for driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others..... \$103.00
5. For each defendant convicted of the misdemeanor of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others..... ~~\$283.00~~  
\$383.00
6. For each defendant convicted of the felony of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others..... ~~\$283.00~~  
\$383.00
7. For the services of a court reporter at each preliminary hearing and trial held in the case..... \$20.00
8. For each time a jury is requested..... \$30.00
9. A sheriff's fee for serving or endeavoring to serve each writ, warrant, order,

process, command, or notice or pursuing  
any fugitive from justice

- a. within the county..... \$30.00, or  
mileage as  
established by the  
Oklahoma Statutes,  
whichever is  
greater, or
- b. outside of the county..... \$30.00, or  
actual, necessary  
expenses, whichever  
is greater

10. For the services of a language interpreter, other than an interpreter appointed pursuant to the provisions of the Oklahoma Interpreter for the Deaf Act, at each hearing held in the case, the actual cost of the interpreter.

B. In addition to the amount collected pursuant to paragraphs 2 through 5 of subsection A of this section, the sum of Six Dollars (\$6.00) shall be assessed and credited to the Law Library Fund pursuant to Section 1201 et seq. of Title 20 of the Oklahoma Statutes.

C. In addition to the amount collected pursuant to subsection A of this section, the sum of Ten Dollars (\$10.00) shall be assessed and collected for each traffic case other than for driving under the influence of alcohol or other intoxicating substance; the sum of Fifteen Dollars (\$15.00) shall be assessed and collected for each misdemeanor case; the sum of Fifteen Dollars (\$15.00) shall be assessed and collected for each misdemeanor case for driving under the influence of alcohol or other intoxicating substance; the sum of Twenty-five Dollars (\$25.00) shall be assessed and collected for each felony case; and the sum of Twenty-five Dollars (\$25.00) shall

be assessed and collected for each felony case for driving under the influence of alcohol or other intoxicating substance.

D. In addition to the amount collected pursuant to subsection A of this section, a special assessment trauma-care fee of One Hundred Dollars (\$100.00) shall be assessed and collected for each misdemeanor or felony case for driving under the influence of alcohol or other intoxicating substance.

E. Prior to conviction, parties in criminal cases shall not be required to pay, advance, or post security for the services of a language interpreter or for the issuance or service of process to obtain compulsory attendance of witnesses.

~~E.~~ F. The fees collected pursuant to this section shall be deposited into the court fund, except the following:

1. The sheriff's fee provided for in paragraph 9 of subsection A of this section which, when collected, shall be deposited in the Sheriff's Service Fee Account, created pursuant to the provisions of Section 514.1 of Title 19 of the Oklahoma Statutes, of the sheriff in the county in which service is made or attempted;

2. The sheriff's fee provided for in Section 153.2 of this title;

3. The witness fees paid by the district attorney pursuant to the provisions of Section 82 of this title which, if collected by the court clerk, shall be transferred to the district attorney's office in the county where witness attendance was required. Fees transferred pursuant to this paragraph shall be deposited in the district attorney's maintenance and operating expense account; ~~and~~

4. The fees provided for in subsection C of this section shall be forwarded to the District Attorneys Council Revolving Fund to defray the costs of prosecution; and

5. The following amounts of the fees provided for in paragraphs 2, 3, 5 and 6 of subsection A of this section, when collected, shall be deposited in the Trauma Care Assistance Revolving Fund, created

pursuant to the provisions of Section 1-2522 of Title 63 of the Oklahoma Statutes:

- a. Ten Dollars (\$10.00) of the Ninety-eight-Dollar fee provided for in paragraph 2 of subsection A of this section,
- b. Ten Dollars (\$10.00) of the Ninety-three-Dollar fee provided for in paragraph 3 of subsection A of this section,
- c. One Hundred Dollars (\$100.00) of the Three-Hundred-Eighty-three-Dollar fee provided for in paragraph 5 of subsection A of this section, and
- d. One Hundred Dollars (\$100.00) of the Three-Hundred-Eighty-three-Dollar fee provided for in paragraph 6 of subsection A of this section.

~~F.~~ G. Costs required to be collected pursuant to this section shall not be dismissed or waived; provided, if the court determines that a person needing the services of a language interpreter is indigent, the court may waive all or part of the costs or require the payment of costs in installments.

~~G.~~ H. As used in this section, "convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred judgment or suspended sentence.

~~H.~~ I. A court clerk may accept in payment for any fee, fine, or cost for violation of any traffic law a nationally recognized credit card issued to the applicant. The court clerk may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of the payment as a service charge for the acceptance of the credit card. For purposes of this paragraph, "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate, or by any other name, issued with or without fee by an issuer

for the use of the cardholder in obtaining goods, services, or anything else of value and which is accepted by over one thousand (1,000) merchants in this state. The court clerk shall determine which nationally recognized credit cards will be accepted as payment for fees; provided, the court clerk must ensure that no loss of state revenue will occur by the use of such cards.

~~I.~~ J. Upon receipt of payment of fines and costs for offenses charged prior to July 1, 1992, the court clerk shall apportion and pay Thirteen Dollars (\$13.00) per conviction to the court fund.

SECTION 14. AMENDATORY 47 O.S. 2001, Section 6-212, as amended by Section 5, Chapter 474, O.S.L. 2002 (47 O.S. Supp. 2003, Section 6-212), is amended to read as follows:

Section 6-212. A. The Department of Public Safety shall not assess and collect multiple reinstatement fees when reinstating the driving privilege of any person having more than one suspension or revocation affecting the person's driving privilege at the time of reinstatement.

B. The Department shall:

1. Suspend or revoke a person's driving privilege for each basis as delineated within the Oklahoma Statutes; and

2. Require any person having more than one suspension or revocation affecting the person's driving privilege to meet the statutory requirements for each action as a condition precedent to the reinstatement of any driving privilege. Provided, however, reinstatement fees shall not be cumulative, and a single reinstatement fee, as provided for in subsection C of this section, shall be paid for all suspensions or revocations as shown by the Department's records at the time of reinstatement.

C. Whenever a person's privilege to operate a motor vehicle is suspended or revoked pursuant to any provision as authorized by the Oklahoma Statutes, the license or privilege to operate a motor

vehicle shall remain under suspension or revocation and shall not be reinstated until:

1. The expiration of each such revocation or suspension order;
2. The person has paid to the Department:

- a. if such privilege is suspended or revoked pursuant to Section 1115.5 of Title 22 of the Oklahoma Statutes or pursuant to any provisions of this title, except as provided in subparagraph b of this paragraph, a processing fee of Twenty-five Dollars (\$25.00) for each such suspension or revocation as shown by the Department's records, ~~or~~
- b. if such privilege is suspended or revoked pursuant to the provisions of Section 6-205, 6-205.1, ~~7-506~~ 7-605, 7-608, 753, 754 or 761 of this title or pursuant to subsection A of Section 7-605 of this title for a conviction for failure to maintain the mandatory motor vehicle insurance required by law or pursuant to subsection B of Section 6-206 of this title for a suspension other than for points accumulation, a processing fee of Seventy-five Dollars (\$75.00) for each such suspension or revocation as shown by the Department's records, or
- c. if such privilege is suspended or revoked pursuant to the provisions of Section 6-205, 6-205.1, 7-605, 7-608, 753, 754 or 761 of this title or pursuant to subsection A of Section 7-605 of this title for a conviction for failure to maintain the mandatory motor vehicle insurance required by law, or pursuant to subsection B of Section 6-206 of this title for a suspension other than for points accumulation, a special assessment trauma-care fee of Two Hundred Dollars (\$200.00) to be deposited into the Trauma Care

Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes for each suspension or revocation as shown by the records of the Department; and

3. The person has paid to the Department a single reinstatement fee of Twenty-five Dollars (\$25.00).

D. Effective July 1, 2002, and for each fiscal year thereafter:

1. Two Hundred Fifty Thousand Dollars (\$250,000.00) of all monies collected each month pursuant to this section shall be apportioned as provided in Section 1104 of this title, except as otherwise provided in this section; and

2. All other monies collected in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) each month shall be deposited in the General Revenue Fund.

SECTION 15. AMENDATORY 63 O.S. 2001, Section 2-401, as last amended by Section 2, Chapter 437, O.S.L. 2003 (63 O.S. Supp. 2003, Section 2-401), is amended to read as follows:

Section 2-401. A. Except as authorized by the Uniform Controlled Dangerous Substances Act it shall be unlawful for any person:

1. To distribute, dispense, transport with intent to distribute or dispense, possess with intent to manufacture, distribute, or dispense, a controlled dangerous substance or to 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;

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.

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), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. Any sentence to the custody of the Department of Corrections 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), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. Any sentence to the custody of the Department of Corrections 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), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment; or

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), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

C. 1. 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.

2. Any person convicted of violating the provisions of this ~~paragraph~~ subsection 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), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

3. A second or subsequent conviction for the violation of the provisions of this ~~paragraph~~ subsection is a felony punishable as a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes.

4. In addition the violator shall be fined an amount not more than One Hundred Thousand Dollars (\$100,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

D. 1. Any person convicted of a second or subsequent felony violation of the provisions of this section, except for paragraph 4 of subsection B of this section, shall be punished as a habitual

offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes.

2. In addition the violator shall be fined twice the fine otherwise authorized, which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

3. 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.

E. 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, dispense, transport with intent to distribute or dispense or cultivate 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.

F. Any person who violates any provision of this section by transporting with intent to distribute or dispense, distributing or possessing with intent to distribute a controlled dangerous substance to a person, or violation of subparagraph G of this section, in or on, or within two thousand (2,000) feet of the real property comprising a public or private elementary or secondary school, public vocational school, public or private college or university, or other institution of higher education, recreation center or public park, including state parks and recreation areas, public housing project, or child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes shall be punished by:

1. For a first offense, a term of imprisonment, or by the imposition of a fine or by both, not exceeding twice that authorized by the appropriate provision of this section 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; or

2. For a second or subsequent offense, a term of imprisonment as provided for a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes. In addition the violator shall serve eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence or eligibility for parole.

G. 1. 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 or possess any substance listed in Section 2-322 of this title or any substance containing any detectable amount of pseudoephedrine or its salts, optical isomers or salts of optical isomers, iodine or its salts, optical isomers or salts of optical isomers, hydriodic acid, sodium metal, lithium metal, anhydrous ammonia, or organic solvents with the intent to use that substance to manufacture a controlled dangerous substance.

2. Any person violating the provisions of this subsection with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance, or possessing any substance listed in this subsection or Section 2-322 of this title, upon conviction, is guilty of a felony and shall be punished by imprisonment in the State Penitentiary for not less than seven (7) years nor more than life and by a fine of not less than Fifty Thousand Dollars (\$50,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. The possession of any amount of anhydrous ammonia in an unauthorized container or the possession of three or more of the substances listed in this subsection shall be prima facie evidence

of intent to use such substance to manufacture a controlled dangerous substance.

3. Any person violating the provisions of this subsection with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance in the following amounts:

- a. 1 kilogram or more of a mixture or substance containing a detectable amount of heroin,
- b. 5 kilograms or more of a mixture or substance containing a detectable amount of:
  - (1) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed,
  - (2) cocaine, its salts, optical and geometric isomers, and salts of isomers,
  - (3) ecgonine, its derivatives, their salts, isomers, and ~~slate~~ salts of isomers, or
  - (4) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in ~~subparagraphs~~ divisions (1) through (3) of this ~~paragraph~~ subparagraph,
- c. 50 grams or more of a mixture or substance described in ~~subparagraph~~ division (2) of ~~paragraph~~ subparagraph b which contains cocaine base,
- d. 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP),
- e. 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD),

- f. 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide,
- g. 1000 kilograms or more of a mixture or substance containing a detectable amount of marijuana or 1000 or more marijuana plants regardless of weight, or
- h. 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers,

upon conviction, is guilty of aggravated manufacturing a controlled dangerous substance punishable by imprisonment in the State Penitentiary for not less than twenty (20) years nor more than life and by a fine of not less than Fifty Thousand Dollars (\$50,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. Any person convicted of a violation of the provisions of this paragraph shall be required to serve a minimum of eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional earned credits towards the completion of the sentence or eligible for parole.

4. Any sentence to the custody of the Department of Corrections for any violation of paragraph 3 of this subsection shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation. A person convicted of a second or subsequent violation of the provisions of paragraph 3 of this subsection shall be punished as a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes and shall be

required to serve a minimum of eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional earned credits or eligibility for parole.

H. 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, notwithstanding any maximum assessment allowable in Section 2-506 of this title. Such assessment shall be paid into a revolving fund for enforcement of controlled dangerous substances created pursuant to Section 2-506 of this title.

I. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

J. For purposes 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 Authorities Act.

~~J.~~ K. When a person is found guilty of a violation of the provisions of this section, the court shall order, in addition to any other penalty, the defendant to pay a one-hundred-dollar assessment to be deposited in the Drug Abuse Education and Treatment Revolving Fund created in Section 2-503.2 of ~~Title 63 of the Oklahoma Statutes~~ this title, upon collection.

SECTION 16. AMENDATORY 63 O.S. 2001, Section 2-402, is amended to read as follows:

Section 2-402. 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, or except as otherwise authorized by this act.

2. It shall be unlawful for any person to purchase any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances 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.

3. 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.

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

1. Any Schedule I or II substance, except marihuana or a substance included in subsection D of Section 2-206 of this title, is guilty of a felony punishable by imprisonment for not less than two (2) years nor more than ten (10) years. A second or subsequent violation of this section with respect to Schedule I or II substance, except marihuana or a substance included in subsection D of Section 2-206 of this title, is a felony punishable by imprisonment for not less than four (4) years nor more than twenty (20) years; or

2. Any Schedule III, IV or V substance, marihuana, a substance included in subsection D of Section 2-206 of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act is guilty of a misdemeanor punishable by confinement for not more than one (1) year. A second or subsequent violation of this section with respect to any Schedule III, IV or V substance, marihuana, a substance included in subsection D of Section 2-206 of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act is a felony punishable by imprisonment for not less than two (2) years nor more than ten (10) years.

C. Any person who violates any provision of this section by possessing or purchasing a controlled dangerous substance from any person, 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, public or private college or university, or other institution of higher education, recreation center or public park, including state parks and recreation areas, or in the presence of any child under twelve (12) years of age, shall be guilty of a felony and punished by:

1. For a first offense, a term of imprisonment, or by the imposition of a fine, or by both, not exceeding twice that authorized by the appropriate provision of this section. In addition, the person 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; or

2. For a second or subsequent offense, a term of imprisonment not exceeding three times that authorized by the appropriate provision of this section and the person 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.

D. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

SECTION 17. AMENDATORY 63 O.S. 2001, Section 2-404, is amended to read as follows:

Section 2-404. 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 of this title;

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.

B. Any person who violates this section is punishable by a civil fine of not more than One Thousand Dollars (\$1,000.00); provided, that, if the violation is prosecuted by an information or

indictment which alleges that the violation was committed knowingly or intentionally, and the trier of fact specifically finds that the violation was committed knowingly or intentionally, such person is guilty of a felony punishable by imprisonment for not more than five (5) years, and a fine of not more than Ten Thousand Dollars (\$10,000.00), except that if such person is a corporation it shall be subject to a civil penalty of not more than One Hundred Thousand Dollars (\$100,000.00). The fine provided for in this subsection shall be in addition to other punishments provided by law and shall not be in lieu of other punishment.

C. Any person convicted of a second or subsequent violation of this section is punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized. The fine provided for in this subsection shall be in addition to other punishments provided by law and shall not be in lieu of other punishment.

D. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

SECTION 18. AMENDATORY 63 O.S. 2001, Section 2-405, is amended to read as follows:

Section 2-405. 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 Uniform Controlled Dangerous Substances 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 younger than that person shall, upon conviction, be guilty of a felony.

E. Any person who violates subsections A, B or C of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year or a fine of not more than One Thousand Dollars (\$1,000.00), or both such fine and imprisonment.

F. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

SECTION 19. AMENDATORY 63 O.S. 2001, Section 2-406, is amended to read as follows:

Section 2-406. 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 title;

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; and

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.

B. Any person who violates this section is guilty of a felony punishable by imprisonment for not more than twenty (20) years or a fine of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both.

C. Any person convicted of a second or subsequent violation of this section is punishable by a term of imprisonment twice that otherwise authorized and by twice the fine otherwise authorized. Convictions for second or subsequent violations of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation.

D. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be

deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

SECTION 20. AMENDATORY 63 O.S. 2001, Section 2-407, is amended to read as follows:

Section 2-407. A. No person shall obtain or attempt to obtain any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances 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 of, alteration of, adding any information to or changing any information on 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.

B. Except as authorized by this act, a person shall not manufacture, create, deliver, or possess with intent to manufacture, create, or deliver or possess a prescription form, an original prescription form, or a counterfeit prescription form. This shall not apply to the legitimate manufacture or delivery of prescription forms, or a person acting as an authorized agent of the practitioner.

C. 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.

D. Any person who violates this section is guilty of a felony punishable by imprisonment for not more than ten (10) years, by a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment. A second or subsequent offense under

this section is a felony punishable by imprisonment for not less than four (4) years nor more than twenty (20) years, by a fine of not more than Twenty Thousand Dollars (\$20,000.00), or by both such fine and imprisonment.

E. Convictions for second or subsequent violations of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation.

F. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

SECTION 21. AMENDATORY 63 O.S. 2001, Section 2-407.1, is amended to read as follows:

Section 2-407.1 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.

D. 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.

E. Any person convicted of violating any provision of subsection A or B of this section shall be guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed ninety (90) days or by the imposition of a fine not to exceed Five Hundred Dollars (\$500.00), or by both such imprisonment and fine. Each violation shall be considered a separate offense.

F. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

SECTION 22. AMENDATORY 63 O.S. 2001, Section 2-415, as amended by Section 1, Chapter 135, O.S.L. 2002 (63 O.S. Supp. 2003, Section 2-415), is amended to read as follows:

Section 2-415. A. The provisions of the Trafficking in Illegal Drugs Act 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);
7. Cocaine base, commonly known as "crack" or "rock"; or
8. 3,4-Methylenedioxy methamphetamine, commonly known as "ecstasy" or MDMA.

B. Except as otherwise authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to:

1. 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

2. 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

3. 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:

1. 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 fine of not less than Twenty-five Thousand Dollars (\$25,000.00)



and not more than One Hundred Thousand Dollars  
(\$100,000.00), or

- 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 fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

2. Cocaine or coca leaves:

- a. 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 fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- 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 a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

3. Heroin:

- a. ten (10) grams or more of a mixture or substance containing a detectable amount of heroin, such violation shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or
- b. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of heroin, such violation shall be punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

4. Amphetamine or methamphetamine:

- a. twenty (20) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine, such violation shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than Two Hundred Thousand Dollars (\$200,000.00), or
- 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 a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

5. Lysergic acid diethylamide (LSD):

- a. 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 by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- b. if the quantity involved is more than one thousand (1,000) dosage units, such violation shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Two Hundred Fifty Thousand Dollars (\$250,000.00);

6. Phencyclidine (PCP):

- a. 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 a fine of not less than Twenty Thousand Dollars (\$20,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or

- b. 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 a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Two Hundred Fifty Thousand Dollars (\$250,000.00);

7. Cocaine base:

- a. 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 a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- b. 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 fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00); and

8. Methylenedioxy methamphetamine:

- a. thirty (30) tablets or ten (10) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine, such violation shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- b. one hundred (100) tablets or thirty (30) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine, such violation shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00).

D. Any person who violates the provisions of this section with respect to a controlled 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:

1. Not less than twice the term of imprisonment provided for in Section 2-401 of this title;

2. If the person has previously been convicted of one violation of this section or has been previously convicted of a felony violation of the Uniform Controlled Dangerous Substances Act arising from separate and distinct transactions, not less than three times the term of imprisonment provided for in Section 2-401 of this title; and

3. If the person has previously been convicted of two or more violations of this section or any provision of the Uniform Controlled Dangerous Substances Act which constitutes a felony, or a combination of such violations arising out of separate and distinct transactions, life without parole.

The terms of imprisonment specified in this subsection shall not be subject to statutory provisions for suspension, deferral or probation, or state correctional institution earned credits accruing from and after November 1, 1989, except for the achievement earned credits authorized by subsection H of Section 138 of Title 57 of the Oklahoma Statutes. To qualify for such achievement credits, such inmates must also be in compliance with the standards for Class level 2 behavior, as defined in subsection D of Section 138 of Title 57 of the Oklahoma Statutes.

Persons convicted of violations of this section shall not be eligible for appeal bonds.

E. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be

deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

SECTION 23. AMENDATORY 47 O.S. 2001, Section 11-1112, as last amended by Section 1 of Enrolled Senate Bill No. 1224 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 11-1112. A. Every driver, when transporting a child under six (6) years of age in a motor vehicle operated on the roadways, streets, or highways of this state, shall provide for the protection of said child by properly using a child passenger restraint system. For purposes of this section and Section 11-1113 of this title, "child passenger restraint system" means an infant or child passenger restraint system which meets the federal standards as set by 49 C.F.R. §571.213.

B. Children at least six (6) years of age but younger than thirteen (13) years of age shall be protected by use of a child passenger restraint system or a seat belt.

C. The provisions of this section shall not apply to:

1. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal laws;

2. The driver of an ambulance or emergency vehicle;

3. The driver of a vehicle in which all of the seat belts are in use;

4. The transportation of children who for medical reasons are unable to be placed in such devices; or

5. The transportation of a child who weighs more than forty (40) pounds and who is being transported in the back seat of a vehicle while wearing only a lap safety belt when the back seat of the vehicle is not equipped with combination lap and shoulder safety belts, or when the combination lap and shoulder safety belts in the back seat are being used by other children who weigh more than forty

(40) pounds. Provided, however, for purposes of this paragraph, back seat shall include all seats located behind the front seat of a vehicle operated by a licensed child care facility or church. Provided further, there shall be a rebuttable presumption that a child has met the weight requirements of this paragraph if at the request of any law enforcement officer, the licensed child care facility or church provides the officer with a written statement verified by the parent or legal guardian that the child weighs more than forty (40) pounds.

D. A law enforcement officer is hereby authorized to stop a vehicle if it appears that the driver of the vehicle has violated the provisions of this section and to give an oral warning to said driver. The warning shall advise the driver of the possible danger to children resulting from the failure to install or use a child passenger restraint system or seat belts in the motor vehicle.

E. A violation of the provisions of this section shall not be admissible as evidence in any civil action or proceeding for damages.

F. In any action brought by or on behalf of an infant for personal injuries or wrongful death sustained in a motor vehicle collision, the failure of any person to have the infant properly restrained in accordance with the provisions of this section shall not be used in aggravation or mitigation of damages.

G. Any person convicted of violating subsection A or B of this section shall be punished by a fine of Ten Dollars (\$10.00) and shall pay ~~a maximum of~~ Fifteen Dollars (\$15.00) court costs ~~thereof~~ in addition to any other fines imposed by this section. This fine shall be suspended in the case of the first offense upon proof of purchase or acquisition by loan of a child passenger restraint system. Provided, the Department of Public Safety shall not assess points to the driving record of any person convicted of a violation of this section.

H. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of Forty Dollars (\$40.00) to be deposited in the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes.

SECTION 24. RECODIFICATION 63 O.S. 2001, Section 330.97, as last amended by Section 11 of this act, shall be recodified as Section 1-2530.10 of Title 63 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 25. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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