

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1713

By: Wyrick, Corn and Leftwich
of the Senate

and

Nance, Roan, Terrill and
DePue of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to controlled substances; naming act; amending 63 O.S. 2001, Sections 2-414, 2-415, as last amended by Section 9, Chapter 396, O.S.L. 2004 and 2-420 (63 O.S. Supp. 2005, Section 2-415), which relate to the Trafficking in Illegal Drugs Act; clarifying reference; creating the crime of aggravated trafficking; establishing quantities of controlled substance for certain offense; stating mandatory minimum penalty for certain offense; requiring certain assessment upon conviction; requiring bail without certain condition; directing the Department of Corrections to provide monitoring; requiring payment of certain costs and fees; requiring certain court order upon acquittal or incarceration; requiring the Department of Corrections to keep statistical records of certain offense; stating information to be included in certain records; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Lonnie Wright Act".

SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-414, is amended to read as follows:

Section 2-414. ~~This act~~ Sections 2-414 through 2-420 of this title shall be known and may be cited as the "Trafficking in Illegal Drugs Act".

SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-415, as last amended by Section 9, Chapter 396, O.S.L. 2004 (63 O.S. Supp. 2005, 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)~~ one hundred (100) pounds or more of a mixture or substance containing a detectable amount of marihuana, such violation shall be deemed aggravated trafficking 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~~ one (1) pound or more of a mixture or substance containing a detectable amount of cocaine or coca leaves, such violation shall be deemed aggravated trafficking 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)~~ three hundred forty (340) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine, such violation shall be deemed aggravated trafficking 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; and

4. If the person is convicted of aggravated trafficking as provided in subparagraph b of paragraph 1 of subsection C of this section, or subparagraph b of paragraph 2 of subsection C of this section, or subparagraph b of paragraph 4 of subsection C of this section, a mandatory minimum sentence of imprisonment in the custody of the Department of Corrections for a term of fifteen (15) years of which the person shall serve eighty-five percent (85%) of such mandatory sentence before being eligible for parole consideration or any earned credits.

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~~ 1-2530.9 of this title and the assessment pursuant to Section 2-503.2 of this title.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 2-420, is amended to read as follows:

Section 2-420. A. Any person ~~convicted of any crime which may be related in any manner to any controlled dangerous substance shall~~

be reported to the Department of Corrections charged with aggravated trafficking pursuant to Section 2-415 of this title shall not be subject to pretrial release as specified in Section 1105.3 of Title 22 of the Oklahoma Statutes. Bail granted to any person pursuant to Section 8 of Article II of the Oklahoma Constitution shall be conditioned upon a Global Positioning System (GPS) monitoring device attached to the person and cost thereof paid by such person at his or her own expense until after the conclusion of the criminal case. The Department of Corrections shall monitor such GPS device and the person until the conclusion of the case, and the person shall pay a supervision fee as provided for other persons subject to supervision by the Department. At the conclusion of the case, the court shall order the removal of the GPS monitoring device if the person is acquitted or is to be incarcerated or the case is dismissed.

B. The Department of Corrections shall maintain statistical records on any aggravated trafficking offense ~~related to controlled dangerous substances,~~ including a calculation of the time period from arrest to disposition, and if the person is convicted, the term of sentence, length of sentence actually served in incarceration, amount of the fine imposed, whether any enhancements or co-occurring offenses were involved, whether the person is determined upon reception into the custody of the Department to be an addicted person, and whether the person has prior convictions by stating the prior offenses.

SECTION 5. This act shall become effective November 1, 2006.

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