

CS for SB 825

THE STATE SENATE
Tuesday, February 28, 2006

Committee Substitute for
Senate Bill No. 825

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 825 - By: CORN and LEFTWICH
of the Senate and BLACKWELL of the House.

[controlled substances - speedy trial - aggravated
trafficking - mandatory imprisonment term - effective date]

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

SECTION 1. 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 2. 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.~~

~~B.~~ 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 and
shall not be released on bail without a Global Positioning System
(GPS) monitoring device attached to the person and cost thereof paid

1 by such person at his or her own expense until after the conclusion
2 of the criminal case. The Department of Corrections shall monitor
3 such GPS device and the person until the conclusion of the case, and
4 the person shall pay a supervision fee as provided for other persons
5 subject to supervision by the Department. At the conclusion of the
6 case, the court shall order the removal of the GPS monitoring device
7 if the person is acquitted or is to be incarcerated or the case is
8 dismissed.

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

19 SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-415, as
20 last amended by Section 9, Chapter 396, O.S.L. 2004 (63 O.S. Supp.
21 2005, Section 2-415), is amended to read as follows:

1 Section 2-415. A. The provisions of the Trafficking in Illegal
2 Drugs Act shall apply to persons convicted of violations with
3 respect to the following substances:

4 1. Marihuana;

5 2. Cocaine or coca leaves;

6 3. Heroin;

7 4. Amphetamine or methamphetamine;

8 5. Lysergic acid diethylamide (LSD);

9 6. Phencyclidine (PCP);

10 7. Cocaine base, commonly known as "crack" or "rock"; or

11 8. 3,4-Methylenedioxy methamphetamine, commonly known as
12 "ecstasy" or MDMA.

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

15 1. Knowingly distribute, manufacture, bring into this state or
16 possess a controlled substance specified in subsection A of this
17 section in the quantities specified in subsection C of this section;

18 or

19 2. Possess any controlled substance with the intent to
20 manufacture a controlled substance specified in subsection A of this
21 section in quantities specified in subsection C of this section; or

22 3. Use or solicit the use of services of a person less than
23 eighteen (18) years of age to distribute or manufacture a controlled

1 dangerous substance specified in subsection A of this section in
2 quantities specified in subsection C of this section.

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

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

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

13 1. Marihuana:

14 a. twenty-five (25) pounds or more of a mixture or
15 substance containing a detectable amount of marihuana,
16 such violation shall be punishable by a fine of not
17 less than Twenty-five Thousand Dollars (\$25,000.00)
18 and not more than One Hundred Thousand Dollars
19 (\$100,000.00), or

20 b. ~~one thousand (1,000)~~ one hundred (100) pounds or more
21 of a mixture or substance containing a detectable
22 amount of marihuana, such violation shall be deemed
23 aggravated trafficking punishable by a fine of not

1 less than One Hundred Thousand Dollars (\$100,000.00)
2 and not more than Five Hundred Thousand Dollars
3 (\$500,000.00);

4 2. Cocaine or coca leaves:

5 a. twenty-eight (28) grams or more of a mixture or
6 substance containing a detectable amount of cocaine or
7 coca leaves, such violation shall be punishable by a
8 fine of not less than Twenty-five Thousand Dollars
9 (\$25,000.00) and not more than One Hundred Thousand
10 Dollars (\$100,000.00), or

11 b. ~~three hundred (300) grams~~ one (1) pound or more of a
12 mixture or substance containing a detectable amount of
13 cocaine or coca leaves, such violation shall be deemed
14 aggravated trafficking punishable by a fine of not
15 less than One Hundred Thousand Dollars (\$100,000.00)
16 and not more than Five Hundred Thousand Dollars
17 (\$500,000.00);

18 3. Heroin:

19 a. ten (10) grams or more of a mixture or substance
20 containing a detectable amount of heroin, such
21 violation shall be punishable by a fine of not less
22 than Twenty-five Thousand Dollars (\$25,000.00) and not
23 more than Fifty Thousand Dollars (\$50,000.00), or

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

6 4. Amphetamine or methamphetamine:

7 a. twenty (20) grams or more of a mixture or substance
8 containing a detectable amount of amphetamine or
9 methamphetamine, such violation shall be punishable by
10 a fine of not less than Twenty-five Thousand Dollars
11 (\$25,000.00) and not more than Two Hundred Thousand
12 Dollars (\$200,000.00), or

13 b. ~~two hundred (200)~~ three hundred forty (340) grams or
14 more of a mixture or substance containing a detectable
15 amount of amphetamine or methamphetamine, such
16 violation shall be deemed aggravated trafficking
17 punishable by a fine of not less than Fifty Thousand
18 Dollars (\$50,000.00) and not more than Five Hundred
19 Thousand Dollars (\$500,000.00);

20 5. Lysergic acid diethylamide (LSD):

21 a. if the quantity involved is not less than fifty (50)
22 dosage units and not more than one thousand (1,000)
23 dosage units, such violation shall be punishable by a

1 fine of not less than Fifty Thousand Dollars
2 (\$50,000.00) and not more than One Hundred Thousand
3 Dollars (\$100,000.00), or

4 b. if the quantity involved is more than one thousand
5 (1,000) dosage units, such violation shall be
6 punishable by a fine of not less than One Hundred
7 Thousand Dollars (\$100,000.00) and not more than Two
8 Hundred Fifty Thousand Dollars (\$250,000.00);

9 6. Phencyclidine (PCP):

10 a. one (1) ounce or more of a substance containing a
11 mixture or substance containing a detectable amount of
12 phencyclidine (PCP), such violation shall be
13 punishable by a fine of not less than Twenty Thousand
14 Dollars (\$20,000.00) and not more than Fifty Thousand
15 Dollars (\$50,000.00), or

16 b. eight (8) ounces or more of a substance containing a
17 mixture or substance containing a detectable amount of
18 phencyclidine (PCP), such violation shall be
19 punishable by a fine of not less than Fifty Thousand
20 Dollars (\$50,000.00) and not more than Two Hundred
21 Fifty Thousand Dollars (\$250,000.00);

22 7. Cocaine base:

1 a. five (5) grams or more of a mixture or substance
2 described in paragraph 2 of this subsection which
3 contains cocaine base, such violation shall be
4 punishable by a fine of not less than Twenty-five
5 Thousand Dollars (\$25,000.00) and not more than One
6 Hundred Thousand Dollars (\$100,000.00), or

7 b. fifty (50) grams or more of a mixture or substance
8 described in paragraph 2 of this subsection which
9 contains cocaine base, such violation shall be
10 punishable by a fine of not less than One Hundred
11 Thousand Dollars (\$100,000.00) and not more than Five
12 Hundred Thousand Dollars (\$500,000.00); and

13 8. Methylenedioxy methamphetamine:

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

20 b. one hundred (100) tablets or thirty (30) grams of a
21 mixture or substance containing a detectable amount of
22 3,4-Methylenedioxy methamphetamine, such violation
23 shall be punishable by a fine of not less than One

1 Hundred Thousand Dollars (\$100,000.00) and not more
2 than Five Hundred Thousand Dollars (\$500,000.00).

3 D. Any person who violates the provisions of this section with
4 respect to a controlled substance specified in subsection A of this
5 section in a quantity specified in subsection C of this section
6 shall, in addition to any fines specified by this section, be
7 punishable by a term of imprisonment as follows:

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

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

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

21 4. If the person is convicted of aggravated trafficking as
22 provided in subparagraph b of paragraph 1 of subsection C of this
23 section, or subparagraph b of paragraph 2 of subsection C of this

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

7 The terms of imprisonment specified in this subsection shall not
8 be subject to statutory provisions for suspension, deferral or
9 probation, or state correctional institution earned credits accruing
10 from and after November 1, 1989, except for the achievement earned
11 credits authorized by subsection H of Section 138 of Title 57 of the
12 Oklahoma Statutes. To qualify for such achievement credits, such
13 inmates must also be in compliance with the standards for Class
14 level 2 behavior, as defined in subsection D of Section 138 of Title
15 57 of the Oklahoma Statutes.

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

18 E. Any person convicted of any offense described in this
19 section shall, in addition to any fine imposed, pay a special
20 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
21 deposited into the Trauma Care Assistance Revolving Fund created in
22 Section ~~1-2522~~ 1-2530.9 of this title and the assessment pursuant to
23 Section 2-503.2 of this title.

1 SECTION 4. This act shall become effective November 1, 2006.
2 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-22-06 - DO
3 PASS, As Amended and Coauthored.