STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1288 By: Cox

AS INTRODUCED

An Act relating to controlled dangerous substances; amending 63 O.S. 2001, Sections 2-204, 2-206 and 2-208, which relate to Schedules I, II and III of the Uniform Controlled Dangerous Substances Act; adding certain substances to Schedule I; adding substances and certain uses to industrial use exemption; removing certain substance from Schedule II; adding certain substances to Schedule III; amending 63 O.S. 2001, Section 2-401, as last amended by Section 2, Chapter 396, O.S.L. 2004 (63 O.S. Supp. 2004, Section 2-401), which relates to prohibited acts and penalties; modifying penalty to include certain substances; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-204, is amended to read as follows:

Section 2-204. The controlled substances listed in this section are included in Schedule I.

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

1. Acetylmethadol~~.~~;

2. Allylprodine~~.~~;

3. Alphacetylmethadol~~.~~;

4. Alphameprodine~~.~~;

5. Alphamethadol~~.~~;

6. Benzethidine~~.~~;

7. Betacetylmethadol~~.~~;

8. Betameprodine~~.~~;

9. Betamethadol~~.~~;

10. Betaprodine~~.~~;

11. Clonitazene~~.~~;

12. Dextromoramide~~.~~;

13. Dextrorphan (except its methyl ether)~~.~~;

14. Diampromide~~.~~;

15. Diethylthiambutene~~.~~;

16. Dimenoxadol~~.~~;

17. Dimepheptanol~~.~~;

18. Dimethylthiambutene~~.~~;

19. Dioxaphetyl butyrate~~.~~;

20. Dipipanone~~.~~;

21. Ethylmethylthiambutene~~.~~;

22. Etonitazene~~.~~;

23. Etoxeridine~~.~~;

24. Furethidine~~.~~;

25. Hydroxypethidine~~.~~;

26. Ketobemidone~~.~~;

27. Levomoramide~~.~~;

28. Levophenacylmorphan~~.~~;

29. Morpheridine~~.~~;

30. Noracymethadol~~.~~;

31. Norlevorphanol~~.~~;

32. Normethadone~~.~~;

33. Norpipanone~~.~~;

34. Phenadoxone~~.~~;

35. Phenampromide~~.~~;

36. Phenomorphan~~.~~;

37. Phenoperidine~~.~~;

38. Piritramide~~.~~;

39. Proheptazine~~.~~;

40. Properidine~~.~~;

41. Racemoramide~~.~~;

42. Trimeperidine~~.~~; or

43. Flunitrazepam.

B. Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Acetorphine~~.~~;

2. Acetyldihydrocodeine~~.~~;

3. Benzylmorphine~~.~~;

4. Codeine methylbromide~~.~~;

5. Codeine-N-Oxide~~.~~;

6. Cyprenorphine~~.~~;

7. Desomorphine~~.~~;

8. Dihydromorphine~~.~~;

9. Etorphine~~.~~;

10. Heroin~~.~~;

11. Hydromorphinol~~.~~;

12. Methyldesorphine~~.~~;

13. Methylhydromorphine~~.~~;

14. Morphine methylbromide~~.~~;

15. Morphine methylsulfonate~~.~~;

16. Morphine-N-Oxide~~.~~;

17. Myrophine~~.~~;

18. Nicocodeine~~.~~;

19. Nicomorphin~~.~~;

20. Normorphine~~.~~;

21. Phoclodine~~.~~; or

22. Thebacon.

C. Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Methcathinone~~.~~;

2. 3, 4-methylenedioxy amphetamine~~.~~;

3. 3, 4-methylenedioxy methamphetamine~~.~~;

4. 5-methoxy-3, 4-methylenedioxy amphetamine~~.~~;

5. 3, 4, 5-trimethoxy amphetamine~~.~~;

6. Bufotenine~~.~~;

7. Diethyltryptamine~~.~~;

8. Dimethyltryptamine~~.~~;

9. 4-methyl-2, 5-dimethoxyamphetamine~~.~~;

10. Ibogaine~~.~~;

11. Lysergic acid diethylamide~~.~~;

12. Marihuana~~.~~;

13. Mescaline~~.~~;

14. N-ethyl-3-piperidyl benzilate~~.~~;

15. N-methyl-3-piperidyl benzilate~~.~~;

16. Psilocybin~~.~~;

17. Psilocyn~~.~~;

18. 2, 5 dimethoxyamphetamine~~.~~;

19. 4 Bromo-2, 5-dimethoxyamphetamine~~.~~;

20. 4 methoxyamphetamine~~.~~;

21. Cyclohexamine~~.~~;

22. Thiophene Analog of Phencyclidine. Also known as: 1-(1-(2-thienyl) cyclohexyl) piperidine; 2-Thienyl Analog of Phencyclidine; TPCP, TCP~~.~~;

23. Phencyclidine (PCP)~~.~~; or

24. Pyrrolidine Analog for Phencyclidine. Also known as 1-(1-Phenyclyclohexyl) - Pyrrolidine, PCPy, PHP.

D. Unless specifically excepted or unless listed in a different schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having stimulant or depressant effect on the central nervous system:

1. Fenethylline~~.~~;

2. Mecloqualone~~.~~;

3. N-ethylamphetamine~~.~~;

4. Methaqualone~~.~~;

5. ~~Gammahydroxybuterate.~~ Gamma-Hydroxybutyric Acid, also known as GHB, gamma-hydroxybutyrate, 4-hydroxybutyrate, 4-hydroxybutanoic acid, sodium oxybate, and sodium oxybutyrate;

6. Gamma-Butyrolactone (GBL) as packaged, marketed, manufactured or promoted for human consumption, with the exception of legitimate food additive and manufacturing purposes;

7. Gamma Hydroxyvalerate (GHV) as packaged, marketed, or manufactured for human consumption, with the exception of legitimate food additive and manufacturing purposes;

8. Gamma Valerolactone (GVL) as packaged, marketed, or manufactured for human consumption, with the exception of legitimate food additive and manufacturing purposes; or

9. 1,4 Butanediol (1,4 BD or BDO) as packaged, marketed, manufactured, or promoted for human consumption with the exception of legitimate manufacturing purposes.

E. 1. The following industrial uses of Gamma-Butyrolactone, Gamma Hydroxyvalerate, Gamma Valerolactone, or 1,4 Butanediol are excluded from all schedules of controlled substances under this title:

a. pesticides,

b. photochemical etching,

c. electrolytes of small batteries or capacitors,

d. viscosity modifiers in polyurethane,

e. surface etching of metal coated plastics,

f. organic paint disbursements for water soluble inks,

g. pH regulators in the dyeing of wool and polyamide fibers,

h. foundry chemistry as a catalyst during curing, ~~and~~

i. curing agents in many coating systems based on urethanes and amides,

j. additives and flavoring agents in food, confectionary, and beverage products,

k. synthetic fiber and clothing production,

l. tetrahydrofuran production,

m. gamma butyrolactone production,

n. polybutylene terephthalate resin production,

o. polyester raw materials for polyurethane elastomers and foams,

p. coating resin raw material, and

q. as an intermediate in the manufacture of other chemicals and pharmaceuticals.

2. At the request of any person, the Director may exempt any other product containing Gamma-Butyrolactone, Gamma Hydroxyvalerate, Gamma Valerolactone, or 1,4 Butanediol from being included as a Schedule I controlled substance if such product is labeled, marketed, manufactured and distributed for legitimate industrial use in a manner that reduces or eliminates the likelihood of abuse.

3. In making a determination regarding an industrial product, the Director, after notice and hearing, shall consider the following:

a. the history and current pattern of abuse,

b. the name and labeling of the product,

c. the intended manner of distribution, advertising and promotion of the product, and

d. other factors as may be relevant to and consistent with the public health and safety.

4. The hearing shall be held in accordance with the procedures of the Administrative Procedures Act.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-206, is amended to read as follows:

Section 2-206. The controlled substances listed in this section are included in Schedule II.

A. Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

1. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate~~.~~;

2. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph 1 of this subsection, but not including the isoquinoline alkaloids of opium~~.~~;

3. Opium poppy and poppy straw~~.~~; or

4. Coca leaves except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers and salts of isomers; or any compound, mixture or preparation which contains any quantity of any of the substances referred to in this paragraph.

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

1. Alphaprodine~~.~~;

2. Anileridine~~.~~;

3. Bezitramide~~.~~;

4. Dihydrocodeine~~.~~;

5. Diphenoxylate~~.~~;

6. Fentanyl~~.~~;

7. Isomethadone~~.~~;

8. Levomethorphan~~.~~;

9. Levorphanol~~.~~;

10. Metazocine~~.~~;

11. Methadone~~.~~;

12. Methadone - Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane~~.~~;

13. Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid~~.~~;

14. Pethidine~~.~~ (Meperidine~~.~~);

15. Pethidine - Intermediate - A, 4-cyano-1-methyl-4-phenylpiperidine~~.~~;

16. Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate~~.~~;

17. Pethidine - Intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid~~.~~;

18. Phenazocine~~.~~;

19. Piminodine~~.~~;

20. Racemethorphan~~.~~;

21. Racemorphan~~.~~;

22. Etorphine Hydrochloride salt only~~.~~;

23. Alfentanil hydrochloride~~.~~; or

24. Levo-alphacetylmethadol.

C. Any substance which contains any quantity of:

1. Methamphetamine, including its salts, isomers, and salts of isomers~~.~~; or

2. Amphetamine, its salts, optical isomers, and salts of its optical isomers.

D. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substances having stimulant or depressant effect on the central nervous system:

1. Phenmetrazine and its salts~~.~~;

2. Methylphenidate~~.~~;

3. Amobarbital~~.~~;

4. Pentobarbital~~.~~; or

5. Secobarbital.

~~6. Tetrahydrocannabinols.~~

SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-208, is amended to read as follows:

Section 2-208. The controlled substances listed in this section are included in Schedule III.

A. Unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substances or any other substance having a potential for abuse associated with a stimulant or depressant effect on the central nervous system:

1. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid unless specifically excepted or unless listed in another schedule~~.~~;

2. Chlorhexadol~~.~~;

3. Glutethimide~~.~~;

4. Lysergic acid~~.~~;

5. Lysergic acid amide~~.~~;

6. Methyprylon~~.~~;

7. Sulfondiethylmethane~~.~~;

8. Sulfonethylmethane~~.~~;

9. Sulfonmethane~~.~~;

10. Benzephetamine and its salts~~.~~;

11. Chlorphentermine and its salts~~.~~;

12. Clortermine~~.~~;

13. Mazindol~~.~~;

14. Phendimetrazine~~.~~;

15. Phenylacetone (P2P)~~.~~;

16. 1-Phenycyclohexylamine~~.~~;

17. 1-Piperidinocychexanecarbo nitrile (PCC)~~.~~;

18. Ketamine, its salts, isomers, and salts of isomers~~.~~;

19. Any material, compound, mixture, or preparation which contains any quantity of the following hormonal substances or steroids, including their salts, isomers, esters and salts of isomers and esters, when the existence of these salts, isomers, esters, and salts of isomers and esters is possible within the specific chemical designation:

a. Boldenone,

b. Chlorotestosterone,

c. Clostebol,

d. Dehydrochlormethyltestosterone,

e. Dihydrotestosterone,

f. Drostanolone,

g. Ethylestrenol,

h. Fluoxymesterone,

i. Formebolone,

j. Mesterolone,

k. Methandienone,

l. Methandranone,

m. Methandriol,

n. Methandrostenolone,

o. Methenolone,

p. Methyltestosterone, except as provided in subsection E of this section,

q. Mibolerone,

r. Nandrolone,

s. Norethandrolone,

t. Oxandrolone,

u. Oxymesterone,

v. Oxymetholone,

w. Stanolone,

x. Stanozolol,

y. Testolactone,

z. Testosterone, except as provided in subsection E of this section, and

aa. Trenbolone;

20. Tetrahydrocannibinols; or

21. Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act.

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

B. Nalorphine.

C. Unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

1. Not more than one and eight-tenths (1.8) grams of codeine or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

2. Not more than one and eight-tenths (1.8) grams of codeine or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

3. Not more than three hundred (300) milligrams of dihydrocodeinone or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage

unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

4. Not more than three hundred (300) milligrams of dihydrocodeinone or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

5. Not more than one and eight-tenths (1.8) grams of dihydrocodeine or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

6. Not more than three hundred (300) milligrams of ethylmorphine or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

7. Not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams, or not more than twenty-five (25) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; or

8. Not more than fifty (50) milligrams of morphine or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

D. The Board of Pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections A and B of this section from the application of all or any part of the Uniform Controlled Dangerous Substances Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the

admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

E. The following hormonal substances or steroids are exempt from classification as Schedule III controlled dangerous substances:

1. Estratest, containing 1.25 mg esterified estrogens and 2.5 mg methyltestosterone;

2. Estratest HS, containing 0.625 mg esterified estrogens and 1.25 mg methyltestosterone;

3. Premarin with Methyltestosterone, containing 1.25 mg conjugated estrogens and 10.0 mg methyltestosterone;

4. Premarin with Methyltestosterone, containing 0.625 mg conjugated estrogens and 5.0 mg methyltestosterone;

5. Testosterone Cypionate - Estrodiol Cypionate injection, containing 50 mg/ml Testosterone Cypionate; and

6. Testosterone Enanthate - Estradiol Valerate injection, containing 90 mg/ml Testosterone Enanthate and 4 mg/ml Estradiol Valerate.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 2-401, as last amended by Section 2, Chapter 396, O.S.L. 2004 (63 O.S. Supp. 2004, Section 2-401), is amended to read as follows:

Section 2-401. A. Except as authorized by the Uniform Controlled Dangerous Substances Act is 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), gamma butyrolactone, gamma hydroxyvalerate, gamma valerolactone, 1,4 butanediol, or gamma-hydroxybutyric acid as defined in Sections 2-204 and 2-208 of this title, 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, cultivate, distribute, or possess with intent to distribute a synthetic controlled substance.

2. Any person convicted of violating the provisions of this paragraph is guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a term not to exceed life and a fine of not more than Twenty-five Thousand Dollars ($25,000.00), 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 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 subsection 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, phosphorus, 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 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. one (1) kilogram or more of a mixture or substance containing a detectable amount of heroin,

b. five (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 salts of isomers, or

(4) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in divisions (1) through (3) of this subparagraph,

c. fifty (50) grams or more of a mixture or substance described in division (2) of subparagraph b of this paragraph which contains cocaine base,

d. one hundred (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. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD),

f. four hundred (400) grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-pheylethy)-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. one thousand (1,000) kilograms or more of a mixture or substance containing a detectable amount of marihuana or one thousand (1000) or more marihuana plants regardless of weight, or

h. fifty (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 the Uniform Controlled Dangerous Substances Act may, in addition to the fine imposed, be assessed an amount not to exceed ten percent (10%) of the fine imposed. Such assessment shall be paid into a revolving fund for enforcement of controlled dangerous substances created pursuant to Section 2-506 of this title.

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.

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 this title, upon collection.

SECTION 5. This act shall become effective November 1, 2005.

50-1-5378 GRS 01/09/05