

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2261

By: Anderson

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5  
6 AS INTRODUCED

7 An Act relating to public health and safety; amending  
8 63 O.S. 2001, Section 2-415, as last amended by  
9 Section 5, Chapter 199, O.S.L. 2007 (63 O.S. Supp.  
10 2009, Section 2-415), which relates to the  
11 Trafficking in Illegal Drugs Act; clarifying  
12 language; deleting certain drug from certain  
13 violation; and providing an effective date.

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

15 SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-415, as  
16 last amended by Section 5, Chapter 199, O.S.L. 2007 (63 O.S. Supp.  
17 2009, Section 2-415), is amended to read as follows:

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

- 21 1. Marihuana;
- 22 2. Cocaine, ~~or~~ coca leaves, or cocaine base, commonly known as  
23 "crack" or "rock";
- 24 3. Heroin;
4. Amphetamine or methamphetamine;

1 5. Lysergic acid diethylamide (LSD);

2 6. Phencyclidine (PCP); or

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

4 ~~8-~~ 3,4-Methylenedioxy methamphetamine, commonly known as  
5 "ecstasy" or MDMA.

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

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

11 2. Possess any controlled substance with the intent to  
12 manufacture a controlled substance specified in subsection A of this  
13 section in quantities specified in subsection C of this section; or

14 3. Use or solicit the use of services of a person less than  
15 eighteen (18) years of age to distribute or manufacture a controlled  
16 dangerous substance specified in subsection A of this section in  
17 quantities specified in subsection C of this section.

18 Violation of this section shall be known as "trafficking in  
19 illegal drugs". Separate types of controlled substances described  
20 in subsection A of this section when possessed at the same time in  
21 violation of any provision of this section shall constitute a  
22 separate offense for each substance.

23 Any person who commits the conduct described in paragraph 1, 2  
24 or 3 of this subsection and represents the quantity of the

1 controlled substance to be an amount described in subsection C of  
2 this section shall be punished under the provisions appropriate for  
3 the amount of controlled substance represented, regardless of the  
4 actual amount.

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

7 1. Marihuana:

8 a. twenty-five (25) pounds or more of a mixture or  
9 substance containing a detectable amount of marihuana,  
10 such violation shall be punishable by a fine of not  
11 less than Twenty-five Thousand Dollars (\$25,000.00)  
12 and not more than One Hundred Thousand Dollars  
13 (\$100,000.00), or

14 b. one thousand (1,000) pounds or more of a mixture or  
15 substance containing a detectable amount of marihuana,  
16 such violation shall be deemed aggravated trafficking  
17 punishable by a fine of not less than One Hundred  
18 Thousand Dollars (\$100,000.00) and not more than Five  
19 Hundred Thousand Dollars (\$500,000.00);

20 2. Cocaine, ~~or~~ coca leaves, or cocaine base:

21 a. twenty-eight (28) grams or more of a mixture or  
22 substance containing a detectable amount of cocaine or  
23 coca leaves, such violation shall be punishable by a  
24 fine of not less than Twenty-five Thousand Dollars

1 (\$25,000.00) and not more than One Hundred Thousand  
2 Dollars (\$100,000.00),

3 b. three hundred (300) grams or more of a mixture or  
4 substance containing a detectable amount of cocaine or  
5 coca leaves, such violation shall be punishable by a  
6 fine of not less than One Hundred Thousand Dollars  
7 (\$100,000.00) and not more than Five Hundred Thousand  
8 Dollars (\$500,000.00), or

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

15 3. Heroin:

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

21 b. twenty-eight (28) grams or more of a mixture or  
22 substance containing a detectable amount of heroin,  
23 such violation shall be punishable by a fine of not  
24

1 less than Fifty Thousand Dollars (\$50,000.00) and not  
2 more than Five Hundred Thousand Dollars (\$500,000.00);

3 4. Amphetamine or methamphetamine:

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

10 b. two hundred (200) grams or more of a mixture or  
11 substance containing a detectable amount of  
12 amphetamine or methamphetamine, such violation shall  
13 be punishable by a fine of not less than Fifty  
14 Thousand Dollars (\$50,000.00) and not more than Five  
15 Hundred Thousand Dollars (\$500,000.00), or

16 c. one (1) pound or more of a mixture or substance  
17 containing a detectable amount of amphetamine or  
18 methamphetamine, such violation shall be deemed  
19 aggravated trafficking punishable by a fine of not  
20 less than Fifty Thousand Dollars (\$50,000.00) and not  
21 more than Five Hundred Thousand Dollars (\$500,000.00);

22 5. Lysergic acid diethylamide (LSD):

23 a. if the quantity involved is not less than fifty (50)  
24 dosage units and not more than one thousand (1,000)

1 dosage units, such violation shall be punishable by a  
2 fine of not less than Fifty Thousand Dollars  
3 (\$50,000.00) and not more than One Hundred Thousand  
4 Dollars (\$100,000.00), or

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

10 6. Phencyclidine (PCP):

- 11 a. one (1) ounce or more of a substance containing a  
12 mixture or substance containing a detectable amount of  
13 phencyclidine (PCP), such violation shall be  
14 punishable by a fine of not less than Twenty Thousand  
15 Dollars (\$20,000.00) and not more than Fifty Thousand  
16 Dollars (\$50,000.00), or  
17 b. eight (8) ounces or more of a substance containing a  
18 mixture or substance containing a detectable amount of  
19 phencyclidine (PCP), such violation shall be  
20 punishable by a fine of not less than Fifty Thousand  
21 Dollars (\$50,000.00) and not more than Two Hundred  
22 Fifty Thousand Dollars (\$250,000.00); and

23 7. ~~Cocaine base~~  
24

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  
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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;

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, subparagraph c of paragraph 2 of subsection C of this  
24          section or subparagraph c of paragraph 4 of subsection C of this

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

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

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

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

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SECTION 2. This act shall become effective November 1, 2010.

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