

1 STATE OF OKLAHOMA

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

3 SENATE BILL 2325

By: Johnson (Constance)

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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 fines and
11 penalties for drug trafficking; amending amount of
12 certain substance; modifying penalty for certain
13 violations; authorizing recalculation of certain
14 sentences; specifying criteria for recalculation;
15 requiring review on certain future dates; allowing
16 for retroactive application; and providing an
17 effective date.

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

19 SECTION 1. AMENDATORY 63 O.S. 2001, Section 2-415, as
20 last amended by Section 5, Chapter 199, O.S.L. 2007 (63 O.S. Supp.
21 2009, Section 2-415), is amended to read as follows:

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

- 25 1. Marihuana;
- 26 2. Cocaine or coca leaves;
- 27 3. Heroin;

- 1 4. Amphetamine or methamphetamine;
- 2 5. Lysergic acid diethylamide (LSD);
- 3 6. Phencyclidine (PCP);
- 4 7. Cocaine base, commonly known as "crack" or "rock"; or
- 5 8. 3,4-Methylenedioxy methamphetamine, commonly known as
- 6 "ecstasy" or MDMA.

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

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

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

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

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

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

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

9 1. Marihuana:

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

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

22 2. Cocaine or coca leaves:

23 a. twenty-eight (28) grams or more of a mixture or
24 substance containing a detectable amount of cocaine or

1 coca leaves, such violation shall be punishable by a
2 fine of not less than Twenty-five Thousand Dollars
3 (\$25,000.00) and not more than One Hundred Thousand
4 Dollars (\$100,000.00),

5 b. three hundred (300) 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 One Hundred Thousand Dollars
9 (\$100,000.00) and not more than Five Hundred Thousand
10 Dollars (\$500,000.00), or

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

17 3. Heroin:

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

23 b. twenty-eight (28) grams or more of a mixture or
24 substance containing a detectable amount of heroin,

1 such violation shall be punishable by a fine of not
2 less than Fifty Thousand Dollars (\$50,000.00) and not
3 more than Five Hundred Thousand Dollars (\$500,000.00);

4 4. Amphetamine or methamphetamine:

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

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

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

23 5. Lysergic acid diethylamide (LSD):
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- 1 a. if the quantity involved is not less than fifty (50)
2 dosage units and not more than one thousand (1,000)
3 dosage units, such violation shall be punishable by a
4 fine of not less than Fifty Thousand Dollars
5 (\$50,000.00) and not more than One Hundred Thousand
6 Dollars (\$100,000.00), or
7 b. if the quantity involved is more than one thousand
8 (1,000) dosage units, such violation shall be
9 punishable by a fine of not less than One Hundred
10 Thousand Dollars (\$100,000.00) and not more than Two
11 Hundred Fifty Thousand Dollars (\$250,000.00);

12 6. Phencyclidine (PCP):

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

1 7. Cocaine base:

- 2 a. ~~five (5)~~ twenty-eight (28) grams or more of a mixture
3 or substance described in paragraph 2 of this
4 subsection which contains cocaine base, such violation
5 shall be punishable by a fine of not less than
6 Twenty-five Thousand Dollars (\$25,000.00) and not more
7 than One Hundred Thousand Dollars (\$100,000.00), or
8 b. ~~fifty (50)~~ one-hundred (100) grams or more of a
9 mixture or substance described in paragraph 2 of this
10 subsection which contains cocaine base, such violation
11 shall be punishable by a fine of not less than One
12 Hundred Thousand Dollars (\$100,000.00) and not more
13 than Five Hundred Thousand Dollars (\$500,000.00); and

14 8. Methylenedioxy methamphetamine:

- 15 a. thirty (30) tablets or ten (10) grams of a mixture or
16 substance containing a detectable amount of 3,4-
17 Methylenedioxy methamphetamine, such violation shall
18 be punishable by a fine of not less than Twenty-five
19 Thousand Dollars (\$25,000.00) and not more than One
20 Hundred Thousand Dollars (\$100,000.00), or
21 b. one hundred (100) tablets or thirty (30) grams of a
22 mixture or substance containing a detectable amount of
23 3,4-Methylenedioxy methamphetamine, such violation
24 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; or

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 E. 1. When a person has been sentenced to imprisonment for a
7 term of life without the possibility of parole for violation of this
8 section of law prior to the effective date of this act, the Pardon
9 and Parole Board shall immediately set such case for review and,
10 based upon factual evidence specific to the quantity of controlled
11 dangerous substance for which the offender was convicted, along with
12 any documentation relevant to that determination, including
13 documentation presented by the person, and shall recalculate the
14 sentence, issuing written findings of such recalculations, not later
15 than ninety (90) days after the date of review.

16 2. The terms of imprisonment specified in this subsection shall
17 not be subject to statutory provisions for suspension, deferral or
18 probation, or state correctional institution earned credits accruing
19 from and after November 1, 1989, except for the achievement earned
20 credits authorized by subsection H of Section 138 of Title 57 of the
21 Oklahoma Statutes. To qualify for such achievement credits, such
22 inmates must also be in compliance with the standards for Class
23 level 2 behavior, as defined in subsection D of Section 138 of Title
24 57 of the Oklahoma Statutes.

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

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

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

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