

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1835

By: Williams

7 COMMITTEE SUBSTITUTE

8 An Act relating to public health and safety; amending  
9 63 O.S. 2011, Section 2-402, as amended by Section  
10 10, Chapter 228, O.S.L. 2012 (63 O.S. Supp. 2012,  
11 Section 2-402), which relates to the Uniform  
12 Controlled Dangerous Substances Act; modifying  
13 certain penalties; making certain acts unlawful;  
14 providing penalties; and providing an effective date.

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

15 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-402, as  
16 amended by Section 10, Chapter 228, O.S.L. 2012 (63 O.S. Supp. 2012,  
17 Section 2-402), is amended to read as follows:

18 Section 2-402. A. 1. It shall be unlawful for any person  
19 knowingly or intentionally to possess a controlled dangerous  
20 substance unless such substance was obtained directly, or pursuant  
21 to a valid prescription or order from a practitioner, while acting  
22 in the course of his or her professional practice, or except as  
23 otherwise authorized by this act.

1           2. It shall be unlawful for any person to purchase any  
2 preparation excepted from the provisions of the Uniform Controlled  
3 Dangerous Substances Act pursuant to Section 2-313 of this title in  
4 an amount or within a time interval other than that permitted by  
5 Section 2-313 of this title.

6           3. It shall be unlawful for any person or business to sell,  
7 market, advertise or label any product containing ephedrine, its  
8 salts, optical isomers, or salts of optical isomers, for the  
9 indication of stimulation, mental alertness, weight loss, appetite  
10 control, muscle development, energy or other indication which is not  
11 approved by the pertinent federal OTC Final Monograph, Tentative  
12 Final Monograph, or FDA-approved new drug application or its legal  
13 equivalent. In determining compliance with this requirement, the  
14 following factors shall be considered:

- 15           a. the packaging of the product,
- 16           b. the name of the product, and
- 17           c. the distribution and promotion of the product,  
18                 including verbal representations made at the point of  
19                 sale.

20           B. Any person who violates this section with respect to:

- 21           1. Any Schedule I or II substance, except marihuana or a  
22 substance included in subsection D of Section 2-206 of this title,  
23 is guilty of a felony punishable by imprisonment for not less than  
24 two (2) years nor more than ten (10) years and by a fine not

1 exceeding Five Thousand Dollars (\$5,000.00). A second or subsequent  
2 violation of this section with respect to Schedule I or II  
3 substance, except marijuana or a substance included in subsection D  
4 of Section 2-206 of this title, is a felony punishable by  
5 imprisonment for not less than four (4) years nor more than twenty  
6 (20) years and by a fine not exceeding Ten Thousand Dollars  
7 (\$10,000.00);

8       2. Any Schedule III, IV or V substance, ~~marihuana~~, a substance  
9 included in subsection D of Section 2-206 of this title, or any  
10 preparation excepted from the provisions of the Uniform Controlled  
11 Dangerous Substances Act is guilty of a misdemeanor punishable by  
12 confinement for not more than one (1) year and by a fine not  
13 exceeding One Thousand Dollars (\$1,000.00);

14       3. Any Schedule III, IV or V substance, ~~marijuana~~, a substance  
15 included in subsection D of Section 2-206 of this title, or any  
16 preparation excepted from the provisions of the Uniform Controlled  
17 Dangerous Substances Act and who, during the period of any court-  
18 imposed probationary term or within ten (10) years of the date  
19 following the completion of the execution of any sentence or  
20 deferred judgment for a violation of this section, commits a second  
21 or subsequent violation of this section shall, upon conviction, be  
22 guilty of a felony punishable by imprisonment in the custody of the  
23 Department of Corrections for not less than two (2) years nor more  
24

1 than ten (10) years and by a fine not exceeding Five Thousand  
2 Dollars (\$5,000.00); ~~or~~

3 4. Any Schedule III, IV or V substance, ~~marijuana~~, a substance  
4 included in subsection D of Section 2-206 of this title, or any  
5 preparation excepted from the provisions of the Uniform Controlled  
6 Dangerous Substances Act and who, ten (10) or more years following  
7 the date of completion of the execution of any sentence or deferred  
8 judgment for a violation of this section, commits a second or  
9 subsequent violation of this section shall, upon conviction, be  
10 guilty of a felony punishable by imprisonment in the custody of the  
11 Department of Corrections for not less than one (1) year nor more  
12 than five (5) years and by a fine not exceeding Five Thousand  
13 Dollars (\$5,000.00); or

14 5. Any marijuana shall, upon conviction for a first or second  
15 offense, be guilty of a misdemeanor punishable by imprisonment in  
16 the county jail for a term of not more than one (1) year and by a  
17 fine not exceeding One Thousand Dollars (\$1,000.00). Any third or  
18 subsequent conviction occurring during the period of any court-  
19 imposed probationary term or within ten (10) years of the date  
20 following the completion of the execution of any sentence or  
21 deferred judgment for a violation of this section shall result in a  
22 felony punishable by imprisonment in the custody of the Department  
23 of Corrections for not less than two (2) years nor more than five  
24 (5) years and by a fine not exceeding Five Thousand Dollars

1 (\$5,000.00). Any third or subsequent conviction occurring ten (10)  
2 or more years following the date of completion of the execution of  
3 any sentence or deferred judgment for a violation of this section  
4 shall result in a felony punishable by imprisonment in the custody  
5 of the Department of Corrections for not less than one (1) year nor  
6 more than three (3) years and by a fine not exceeding Five Thousand  
7 Dollars (\$5,000.00).

8 C. Any person who violates any provision of this section by  
9 possessing or purchasing a controlled dangerous substance from any  
10 person, in or on, or within one thousand (1,000) feet of the real  
11 property comprising a public or private elementary or secondary  
12 school, public vocational school, public or private college or  
13 university, or other institution of higher education, recreation  
14 center or public park, including state parks and recreation areas,  
15 or in the presence of any child under twelve (12) years of age,  
16 shall be guilty of a felony and punished by:

17 1. For a first offense, a term of imprisonment, or by the  
18 imposition of a fine, or by both, not exceeding twice that  
19 authorized by the appropriate provision of this section. In  
20 addition, the person shall serve a minimum of fifty percent (50%) of  
21 the sentence received prior to becoming eligible for state  
22 correctional institution earned credits toward the completion of  
23 said sentence; or

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1        2. For a second or subsequent offense, a term of imprisonment  
2 not exceeding three times that authorized by the appropriate  
3 provision of this section and the person shall serve a minimum of  
4 ninety percent (90%) of the sentence received prior to becoming  
5 eligible for state correctional institution earned credits toward  
6 the completion of said sentence, and imposition of a fine not  
7 exceeding Ten Thousand Dollars (\$10,000.00).

8        D. Any person convicted of any offense described in this  
9 section shall, in addition to any fine imposed, pay a special  
10 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be  
11 deposited into the Trauma Care Assistance Revolving Fund created in  
12 Section 1-2530.9 of this title.

13        SECTION 2. This act shall become effective November 1, 2013.

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15        54-1-7415        GRS        02/27/13

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