HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2589 By: Ownbey of the House

and

Simpson of the Senate

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 2011, Section 2-415, which relates to the Trafficking in Illegal Drugs Act; making certain substances applicable to the Trafficking in Illegal Drugs Act; adding penalties; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-415, is amended to read as follows:

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

1. Marihuana;

2. Cocaine or coca leaves;

3. Heroin;

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4. Amphetamine or methamphetamine;

5. Lysergic acid diethylamide (LSD);

6. Phencyclidine (PCP);

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

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

9. Morphine;

10. Oxycodone;

11. Hydrocodone; or

12. Benzodiazepine.

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

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

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

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

Violation of this section shall be known as "trafficking in illegal drugs". Separate types of controlled substances described

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in subsection A of this section when possessed at the same time in violation of any provision of this section shall constitute a separate offense for each substance.

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

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

1. Marihuana:

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

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

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2. Cocaine or coca leaves:

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

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

c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of cocaine or coca leaves, ~~such violation~~ shall be deemed aggravated trafficking punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

3. Heroin:

a. ten (10) grams or more of a mixture or substance containing a detectable amount of heroin, ~~such violation~~ shall be punishable by a fine of not less

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than Twenty-five Thousand Dollars ($25,000.00) and not more than Fifty Thousand Dollars ($50,000.00), or

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

4. Amphetamine or methamphetamine:

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

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

c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine, ~~such violation~~ shall be deemed aggravated trafficking punishable by a fine

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

5. Lysergic acid diethylamide (LSD):

a. one (1) gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD), ~~such violation~~ shall be punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than One Hundred Thousand Dollars ($100,000.00), or

b. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD), ~~such violation~~ shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Two Hundred Fifty Thousand Dollars ($250,000.00);

6. Phencyclidine (PCP):

a. twenty (20) grams or more of a substance containing a mixture or substance containing a detectable amount of phencyclidine (PCP), ~~such violation~~ shall be punishable by a fine of not less than Twenty Thousand Dollars ($20,000.00) and not more than Fifty Thousand Dollars ($50,000.00), or

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b. one hundred fifty (150) grams or more of a substance containing a mixture or substance containing a detectable amount of phencyclidine (PCP), ~~such violation~~ shall be punishable by a fine of not less than Fifty Thousand Dollars ($50,000.00) and not more than Two Hundred Fifty Thousand Dollars ($250,000.00);

7. Cocaine base:

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

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

8. Methylenedioxy methamphetamine:

a. thirty (30) tablets or ten (10) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine, ~~such violation~~ shall be punishable by a fine of not less than Twenty-five

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Thousand Dollars ($25,000.00) and not more than One Hundred Thousand Dollars ($100,000.00), or

b. one hundred (100) tablets or thirty (30) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine, ~~such violation~~ shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

9. Morphine: One thousand (1,000) grams of a mixture containing a detectable amount of morphine, shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

10. Oxycodone: Four hundred (400) grams of a mixture containing a detectable amount of oxycodone, shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00);

11. Hydrocodone: Fifty (50) grams of a mixture containing a detectable amount of hydrocodone, shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00); and

12. Benzodiazepine: Fifteen (15) grams of a mixture containing a detectable amount of benzodiazepine, shall be punishable by a fine of not less than One Hundred Thousand Dollars ($100,000.00) and not more than Five Hundred Thousand Dollars ($500,000.00).

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

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

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

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

4. If the person is convicted of aggravated trafficking as provided in subparagraph b of paragraph 1 of subsection C of this section, subparagraph c of paragraph 2 of subsection C of this section or subparagraph c of paragraph 4 of subsection C of this section, a mandatory minimum sentence of imprisonment in the custody of the Department of Corrections for a term of fifteen (15) years of

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which the person shall serve eighty-five percent (85%) of such mandatory sentence before being eligible for parole consideration or any earned credits.

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

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

E. 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 1-2530.9 of this title and the assessment pursuant to Section 2-503.2 of this title.

SECTION 2. This act shall become effective November 1, 2014.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02/13/2014 - DO PASS, As Amended and Coauthored.

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