

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1835 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Cory Williams

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 1835

By: Williams

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending
63 O.S. 2011, Section 2-402, as amended by Section
10, Chapter 228, O.S.L. 2012 (63 O.S. Supp. 2012,
Section 2-402), which relates to the Uniform
Controlled Dangerous Substances Act; modifying
certain penalties; making certain acts unlawful;
providing 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 2-402, as
amended by Section 10, Chapter 228, O.S.L. 2012 (63 O.S. Supp. 2012,
Section 2-402), is amended to read as follows:

Section 2-402. A. 1. It shall be unlawful for any person
knowingly or intentionally to possess a controlled dangerous
substance unless such substance was obtained directly, or pursuant
to a valid prescription or order from a practitioner, while acting
in the course of his or her professional practice, or except as
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
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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 54-1-7214 GRS 02/22/13
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