

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

SENATE BILL 914

By: Johnson (Constance)

AS INTRODUCED

An Act relating to marijuana; 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 certain prohibited acts; providing certain penalties for certain unlawful possession or purchase of marihuana in certain amounts; providing penalties for certain subsequent violations; 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.

2. It shall be unlawful for any person to purchase any preparation excepted from the provisions of the Uniform Controlled

1 Dangerous Substances Act pursuant to Section 2-313 of this title in
2 an amount or within a time interval other than that permitted by
3 Section 2-313 of this title.

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

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

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

- 19 1. Any Schedule I or II substance, except ~~marihuana~~ marijuana
20 or a substance included in subsection D of Section 2-206 of this
21 title, is guilty of a felony punishable by imprisonment for not less
22 than two (2) years nor more than ten (10) years and by a fine not
23 exceeding Five Thousand Dollars (\$5,000.00). A second or subsequent
24 violation of this section with respect to Schedule I or II

1 substance, except marijuana or a substance included in subsection D
2 of Section 2-206 of this title, is a felony punishable by
3 imprisonment for not less than four (4) years nor more than twenty
4 (20) years and by a fine not exceeding Ten Thousand Dollars
5 (\$10,000.00);

6 2. Any Schedule III, IV or V substance, ~~marihuana~~, marijuana in
7 an amount greater than 1.5 ounces or its equivalent amount of 42.5
8 grams, a substance included in subsection D of Section 2-206 of this
9 title, or any preparation excepted from the provisions of the
10 Uniform Controlled Dangerous Substances Act is guilty of a
11 misdemeanor punishable by confinement for not more than one (1) year
12 and by a fine not exceeding One Thousand Dollars (\$1,000.00);

13 3. Marijuana, in an amount less than or equal to 1.5 ounces or
14 its equivalent amount of 42.5 grams, is guilty of a misdemeanor
15 punishable by confinement for not more than ten (10) days and/or by
16 a fine not exceeding Two Hundred Dollars (\$200.00);

17 4. Any Schedule III, IV or V substance, marijuana, a substance
18 included in subsection D of Section 2-206 of this title, or any
19 preparation excepted from the provisions of the Uniform Controlled
20 Dangerous Substances Act and who, during the period of any court-
21 imposed probationary term or within ten (10) years of the date
22 following the completion of the execution of any sentence or
23 deferred judgment for a violation of this section, commits a second
24 or subsequent violation of this section shall, upon conviction, be

1 guilty of a felony punishable by imprisonment in the custody of the
2 Department of Corrections for not less than two (2) years nor more
3 than ten (10) years and by a fine not exceeding Five Thousand
4 Dollars (\$5,000.00); ~~or~~

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

16 6. Marijuana, in an amount greater than 1.5 ounces or its
17 equivalent amount of 42.5 grams, and who, during the period of any
18 court-imposed probationary term or within one (1) year of the date
19 following the completion of the execution of any sentence or
20 deferred judgment for a violation of paragraph 2 of subsection B of
21 this section, commits a second or subsequent violation shall, upon
22 conviction, be guilty of a felony punishable by imprisonment in the
23 custody of the Department of Corrections for not less than one (1)
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1 year nor more than two (2) years and by a fine not exceeding Two
2 Thousand Dollars (\$2,000.00); or

3 7. Marijuana, in an amount greater than 1.5 ounces or its
4 equivalent amount of 42.5 grams, and who, one (1) or more years
5 following the date of completion of the execution of any sentence or
6 deferred judgment for a violation of paragraph 2 of subsection B of
7 this section, commits a second or subsequent violation shall, upon
8 conviction, be guilty of a misdemeanor punishable by imprisonment in
9 the custody of the Department of Corrections for not less than six
10 (6) months nor more than one (1) year and/or by a fine not exceeding
11 One Thousand Dollars (\$1,000.00).

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

21 1. For a first offense, a term of imprisonment, or by the
22 imposition of a fine, or by both, not exceeding twice that
23 authorized by the appropriate provision of this section. In
24 addition, the person shall serve a minimum of fifty percent (50%) of

1 the sentence received prior to becoming eligible for state
2 correctional institution earned credits toward the completion of
3 said sentence; or

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

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

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

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