

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 1835

By: Williams

AS INTRODUCED

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 penalty; 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 or a  
20 substance included in subsection D of Section 2-206 of this title,  
21 is guilty of a felony punishable by imprisonment for not less than  
22 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, a substance  
7 included in subsection D of Section 2-206 of this title, or any  
8 preparation excepted from the provisions of the Uniform Controlled  
9 Dangerous Substances Act is guilty of a misdemeanor punishable by  
10 confinement for not more than one (1) year and by a fine not  
11 exceeding One Thousand Dollars (\$1,000.00);

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

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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18 54-1-5055 GRS 01/04/13  
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