

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2479 _____
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: Pam Peterson

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2479

By: Peterson

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to drugs; amending 63 O.S. 2011, Section 2-402, as amended by Section 10, Chapter 228, O.S.L. 2012 (63 O.S. Supp. 2015, Section 2-402), which relates to the Uniform Controlled Dangerous Substances Act; modifying penalties for certain prohibited acts; 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. 2015, 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~~ marijuana
22 or a substance included in subsection D of Section 2-206 of this
23 title, is guilty of a felony punishable by imprisonment for not ~~less~~
24 ~~than two (2) years nor more than ten (10)~~ five (5) years and by a

1 fine not exceeding Five Thousand Dollars (\$5,000.00). A second ~~or~~
2 ~~subsequent~~ violation of this section with respect to a Schedule I or
3 II substance, except marijuana or a substance included in subsection
4 D 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)~~ ten (10) years and by a fine not exceeding Ten Thousand Dollars
7 (\$10,000.00). A third or subsequent violation of this section with
8 respect to a Schedule I or II substance, except marijuana or a
9 substance included in subsection D of Section 2-206 of this title,
10 is a felony punishable by imprisonment for not less than four (4)
11 years nor more than fifteen (15) years and by a fine not exceeding
12 Ten Thousand Dollars (\$10,000.00);

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

19 3. Any Schedule III, IV or V substance, marijuana, a substance
20 included in subsection D of Section 2-206 of this title, or any
21 preparation excepted from the provisions of the Uniform Controlled
22 Dangerous Substances Act and who, during the period of any court-
23 imposed probationary term or within ten (10) years of the date
24 following the completion of the execution of any sentence or

1 deferred judgment for a violation of this section, commits a second
2 or subsequent violation of this section shall, upon conviction, be
3 guilty of a felony punishable by imprisonment in the custody of the
4 Department of Corrections for not less than ~~two (2) years~~ one (1)
5 year nor more than ~~ten (10)~~ five (5) years and by a fine not
6 exceeding Five Thousand Dollars (\$5,000.00); or

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

18 C. Any person who violates any provision of this section by
19 possessing or purchasing a controlled dangerous substance from any
20 person, in or on, or within one thousand (1,000) feet of the real
21 property comprising a public or private elementary or secondary
22 school, public vocational school, public or private college or
23 university, or other institution of higher education, recreation
24 center or public park, including state parks and recreation areas,

1 or in the presence of any child under twelve (12) years of age,
2 shall be guilty of a felony and punished by:

3 1. For a first offense, a term of imprisonment, or by the
4 imposition of a fine, or by both, not exceeding twice that
5 authorized by the appropriate provision of this section. In
6 addition, the person shall serve a minimum of fifty percent (50%) of
7 the sentence received prior to becoming eligible for state
8 correctional institution earned credits toward the completion of
9 said sentence; or

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

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

22 SECTION 2. This act shall become effective November 1, 2016.
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24 55-2-9162 GRS 02/17/16

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