

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2479

By: Peterson

7 COMMITTEE SUBSTITUTE

8 An Act relating to drugs; amending 63 O.S. 2011,
9 Section 2-402, as amended by Section 10, Chapter 228,
10 O.S.L. 2012 (63 O.S. Supp. 2015, Section 2-402),
11 which relates to the Uniform Controlled Dangerous
12 Substances Act; modifying penalties for certain
13 prohibited acts; and providing an effective date.

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

15 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-402, as
16 amended by Section 10, Chapter 228, O.S.L. 2012 (63 O.S. Supp. 2015,
17 Section 2-402), is amended to read as follows:

18 Section 2-402. A. 1. It shall be unlawful for any person
19 knowingly or intentionally to possess a controlled dangerous
20 substance unless such substance was obtained directly, or pursuant
21 to a valid prescription or order from a practitioner, while acting
22 in the course of his or her professional practice, or except as
23 otherwise authorized by this act.

24 2. It shall be unlawful for any person to purchase any
 preparation excepted from the provisions of the Uniform Controlled
 Dangerous Substances Act pursuant to Section 2-313 of this title in

1 an amount or within a time interval other than that permitted by
2 Section 2-313 of this title.

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

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

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

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

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

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

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

1 Department of Corrections for not less than ~~two (2) years~~ one (1)
2 year nor more than ~~ten (10)~~ five (5) years and by a fine not
3 exceeding Five Thousand Dollars (\$5,000.00); or

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

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

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

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

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

20 SECTION 2. This act shall become effective November 1, 2016.

21
22 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,
23 dated 02/24/2016 - DO PASS, As Amended.
24