

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 2ND CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 793

By: Treat, Sharp, Pittman and
Jech of the Senate

6 and

7 Downing and Cleveland of
8 the House

9
10 2ND CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to the Uniform Controlled Dangerous
12 Substances Act; amending 63 O.S. 2011, Section 2-401,
13 as amended by Section 4, Chapter 206, O.S.L. 2012 (63
14 O.S. Supp. 2017, Section 2-401), which relates to
15 prohibited acts; modifying violations; modifying
16 penalties; making certain requirements for
17 convictions; amending 63 O.S. 2011, Section 2-415, as
18 last amended by Section 1, Chapter 258, O.S.L. 2015
19 (63 O.S. Supp. 2017, Section 2-415), which relates to
20 the application of fines and penalties; modifying
21 inclusions; modifying penalties; making certain
22 requirements for convictions; amending 63 O.S. 2011,
23 Section 2-509, as amended by Section 2, Chapter 25,
24 O.S.L. 2017 (63 O.S. Supp. 2017, Section 2-509),
which relates to eradication and penalties; modifying
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 2-401, as
amended by Section 4, Chapter 206, O.S.L. 2012 (63 O.S. Supp. 2017,
Section 2-401), is amended to read as follows:

1 Section 2-401. A. Except as authorized by the Uniform
2 Controlled Dangerous Substances Act, it shall be unlawful for any
3 person:

4 1. To distribute, dispense, transport with intent to distribute
5 or dispense, possess with intent to manufacture, distribute, or
6 dispense, a controlled dangerous substance or to solicit the use of
7 or use the services of a person less than eighteen (18) years of age
8 to cultivate, distribute or dispense a controlled dangerous
9 substance;

10 2. To create, distribute, transport with intent to distribute
11 or dispense, or possess with intent to distribute, a counterfeit
12 controlled dangerous substance; or

13 3. To distribute any imitation controlled substance as defined
14 by Section 2-101 of this title, except when authorized by the Food
15 and Drug Administration of the United States Department of Health
16 and Human Services.

17 B. Any person who violates the provisions of this section with
18 respect to:

19 1. A substance classified in Schedule I or II, except for
20 marijuana ~~which is a narcotic drug, lysergic acid diethylamide~~
21 ~~(LSD), gamma butyrolactone, gamma hydroxyvalerate, gamma~~
22 ~~valerolactone, 1,4 butanediol, or gamma-hydroxybutyric acid as~~
23 ~~defined in Sections 2-204 and 2-208 of this title, upon conviction,~~
24 shall be guilty of transporting or possessing with an intent to

1 distribute a controlled dangerous substance, a felony, and shall be
2 sentenced to a term of imprisonment in the custody of the Department
3 of Corrections for not ~~less~~ more than ~~five (5)~~ seven (7) years ~~nor~~
4 ~~more than life~~ and a fine of not more than One Hundred Thousand
5 Dollars (\$100,000.00), which shall be in addition to other
6 punishment provided by law and shall not be imposed in lieu of other
7 punishment. ~~Any sentence to the custody of the Department of~~
8 ~~Corrections shall not be subject to statutory provisions for~~
9 ~~suspended sentences, deferred sentences, or probation except when~~
10 ~~the conviction is for a first offense~~ A second conviction for the
11 violation of provisions of this paragraph is a felony punishable by
12 a term of imprisonment in the custody of the Department of
13 Corrections for not more than fourteen (14) years. A third or
14 subsequent conviction for the violation of the provisions of this
15 paragraph is a felony punishable by a term of imprisonment in the
16 custody of the Department of Corrections for not more than twenty
17 (20) years;

18 2. Any other controlled dangerous substance classified in
19 Schedule ~~I, II,~~ III, ~~or~~ IV, V or marijuana, upon conviction, shall
20 be guilty of a felony and shall be sentenced to a term of
21 imprisonment in the custody of the Department of Corrections for not
22 ~~less~~ more than ~~two (2)~~ five (5) years ~~nor more than life~~ and a fine
23 of not more than Twenty Thousand Dollars (\$20,000.00), which shall
24 be in addition to other punishment provided by law and shall not be

1 imposed in lieu of other punishment. ~~Any sentence to the custody of~~
2 ~~the Department of Corrections shall not be subject to statutory~~
3 ~~provisions for suspended sentences, deferred sentences, or probation~~
4 ~~except when the conviction is for a first offense~~ A second
5 conviction for the violation of the provisions of this paragraph is
6 a felony punishable by a term of imprisonment in the custody of the
7 Department of Corrections for not more than ten (10) years. A third
8 or subsequent conviction for the violation of the provisions of this
9 paragraph is a felony punishable by a term of imprisonment in the
10 custody of the Department of Corrections for not more than fifteen
11 (15) years; or

12 3. ~~A substance classified in Schedule V, upon conviction, shall~~
13 ~~be guilty of a felony and shall be sentenced to a term of~~
14 ~~imprisonment for not more than five (5) years and a fine of not more~~
15 ~~than One Thousand Dollars (\$1,000.00), which shall be in addition to~~
16 ~~other punishment provided by law and shall not be imposed in lieu of~~
17 ~~other punishment; or~~

18 4. An imitation controlled substance as defined by Section 2-
19 101 of this title, upon conviction, shall be guilty of a misdemeanor
20 and shall be sentenced to a term of imprisonment in the county jail
21 for a period of not more than one (1) year and a fine of not more
22 than One Thousand Dollars (\$1,000.00). A person convicted of a
23 second violation of the provisions of this paragraph shall be guilty
24 of a felony and shall be sentenced to a term of imprisonment in the

1 custody of the Department of Corrections for not more than ~~five (5)~~
2 two (2) years and a fine of not more than Five Thousand Dollars
3 (\$5,000.00), which shall be in addition to other punishment provided
4 by law and shall not be imposed in lieu of other punishment.

5 C. 1. Except when authorized by the Food and Drug
6 Administration of the United States Department of Health and Human
7 Services, it shall be unlawful for any person to manufacture, or
8 ~~cultivate, distribute, or possess with intent to distribute~~ a
9 controlled substance or synthetic controlled substance.

10 2. Any person convicted of violating the provisions of ~~this~~
11 paragraph 1 of this subsection with respect to distributing a
12 controlled substance is guilty of a felony and shall be punished by
13 imprisonment in the custody of the Department of Corrections for a
14 term not to exceed ~~life~~ ten (10) years and a fine of not more than
15 Twenty-five Thousand Dollars (\$25,000.00), which shall be in
16 addition to other punishment provided by law and shall not be
17 imposed in lieu of other punishment.

18 3. A second ~~or subsequent~~ conviction for the violation of the
19 provisions of ~~this~~ paragraph 1 of this subsection with respect to
20 distributing a controlled substance is a felony punishable ~~as a~~
21 ~~habitual offender pursuant to Section 51.1 of Title 21 of the~~
22 ~~Oklahoma Statutes~~ by imprisonment in the custody of the Department
23 of Corrections for a term not less than two (2) years nor more than
24 twenty (20) years. A third or subsequent conviction for the

1 violation of the provisions of this paragraph is a felony punishable
2 by imprisonment in the custody of the Department of Corrections for
3 a term not less than ten (10) years nor more than life.

4 ~~4. In addition, the violator shall be fined an amount not more~~
5 ~~than One Hundred Thousand Dollars (\$100,000.00), which shall be in~~
6 ~~addition to other punishment provided by law and shall not be~~
7 ~~imposed in lieu of other punishment~~

8 Any person convicted of violating the provisions of paragraph 1
9 of this subsection with respect to manufacturing a controlled
10 substance is guilty of a felony and shall be punished by
11 imprisonment in the custody of the Department of Corrections for a
12 term not to exceed ten (10) years and a fine of not more than
13 Twenty-five Thousand Dollars (\$25,000.00), which shall be in
14 addition to other punishment provided by law and shall not be
15 imposed in lieu of other punishment.

16 5. A second conviction for the violation of the provisions of
17 paragraph 1 of this subsection with respect to manufacturing a
18 controlled substance is a felony punishable by imprisonment in the
19 custody of the Department of Corrections for a term not less than
20 two (2) years nor more than twenty (20) years. A third or
21 subsequent conviction for the violation of the provisions of this
22 paragraph is a felony punishable by imprisonment in the custody of
23 the Department of Corrections for a term not less than ten (10)
24 years nor more than life.

1 D. ~~1. Any person convicted of a second or subsequent felony~~
2 ~~violation of the provisions of this section, except for paragraph 4~~
3 ~~of subsection B of this section, shall be punished as a habitual~~
4 ~~offender pursuant to Section 51.1 of Title 21 of the Oklahoma~~
5 ~~Statutes.~~

6 ~~2. In addition, the violator shall be fined twice the fine~~
7 ~~otherwise authorized, which shall be in addition to other punishment~~
8 ~~provided by law and shall not be imposed in lieu of other~~
9 ~~punishment.~~

10 ~~3. Convictions for second or subsequent violations of the~~
11 ~~provisions of this section shall not be subject to statutory~~
12 ~~provisions for suspended sentences, deferred sentences, or probation~~

13 Convictions for violations of the provisions of this section
14 shall be subject to the statutory provisions for suspended or
15 deferred sentences, or probation as provided in Section 991a of
16 Title 22 of the Oklahoma Statutes.

17 E. Any person who is at least eighteen (18) years of age and
18 who violates the provisions of this section by using or soliciting
19 the use of services of a person less than eighteen (18) years of age
20 to distribute, dispense, transport with intent to distribute or
21 dispense or cultivate a controlled dangerous substance or by
22 distributing a controlled dangerous substance to a person under
23 eighteen (18) years of age, ~~is punishable by twice the fine and by~~
24

1 ~~twice the imprisonment otherwise authorized~~ or in the presence of a
2 person under twelve (12) years of age, is punishable by:

3 1. For a first violation of this section, a term of
4 imprisonment in the custody of the Department of Corrections not
5 less than two (2) years nor more than ten (10) years;

6 2. For a second violation of this section, a term of
7 imprisonment in the custody of the Department of Corrections for not
8 less than four (4) years nor more than twenty (20) years; or

9 3. For a third or subsequent violation of this section, a term
10 of imprisonment in the custody of the Department of Corrections for
11 not less than ten (10) years nor more than life.

12 F. Any person who violates any provision of this section by
13 transporting with intent to distribute or dispense, distributing or
14 possessing with intent to distribute a controlled dangerous
15 substance to a person, or violation of subsection G of this section,
16 in or on, or within two thousand (2,000) feet of the real property
17 comprising a public or private elementary or secondary school,
18 public vocational school, public or private college or university,
19 or other institution of higher education, recreation center or
20 public park, including state parks and recreation areas, public
21 housing project, or child care facility as defined by Section 402 of
22 Title 10 of the Oklahoma Statutes, shall be punished by:

23 1. For a first offense, a term of imprisonment in the custody
24 of the Department of Corrections, or by the imposition of a fine or

1 by both, not exceeding twice that authorized by the appropriate
2 provision of this section ~~and shall serve a minimum of fifty percent~~
3 ~~(50%) of the sentence received prior to becoming eligible for state~~
4 ~~correctional institution earned credits toward the completion of the~~
5 ~~sentence; or~~

6 2. For a second or subsequent ~~offense~~ violation of this
7 section, a term of imprisonment ~~as provided for a habitual offender~~
8 ~~pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes. In~~
9 ~~addition, the violator shall serve eighty five percent (85%) of the~~
10 ~~sentence received prior to becoming eligible for state correctional~~
11 ~~institution earned credits toward the completion of the sentence or~~
12 ~~eligibility for parole~~ in the custody of the Department of
13 Corrections, or by the imposition of a fine or by both, not
14 exceeding thrice that authorized by the appropriate provision of
15 this section. Convictions for second and subsequent violations of
16 the provisions of this section shall not be subject to statutory
17 provisions of suspended sentences, deferred sentences or probation.

18 G. 1. Except as authorized by the Uniform Controlled Dangerous
19 Substances Act, it shall be unlawful for any person to manufacture
20 or attempt to manufacture any controlled dangerous substance or
21 possess any substance listed in Section 2-322 of this title or any
22 substance containing any detectable amount of pseudoephedrine or its
23 salts, optical isomers or salts of optical isomers, iodine or its
24 salts, optical isomers or salts of optical isomers, hydriodic acid,

1 sodium metal, lithium metal, anhydrous ammonia, phosphorus, or
2 organic solvents with the intent to use that substance to
3 manufacture a controlled dangerous substance.

4 2. Any person violating the provisions of this subsection with
5 respect to the unlawful manufacturing or attempting to unlawfully
6 manufacture any controlled dangerous substance, or possessing any
7 substance listed in this subsection or Section 2-322 of this title,
8 upon conviction, is guilty of a felony and shall be punished by
9 imprisonment for not less than seven (7) years nor more than life
10 and by a fine of not less than Fifty Thousand Dollars (\$50,000.00),
11 which shall be in addition to other punishment provided by law and
12 shall not be imposed in lieu of other punishment. The possession of
13 any amount of anhydrous ammonia in an unauthorized container shall
14 be prima facie evidence of intent to use such substance to
15 manufacture a controlled dangerous substance.

16 3. Any person violating the provisions of this subsection with
17 respect to the unlawful manufacturing or attempting to unlawfully
18 manufacture any controlled dangerous substance in the following
19 amounts:

- 20 a. one (1) kilogram or more of a mixture or substance
21 containing a detectable amount of heroin,
- 22 b. five (5) kilograms or more of a mixture or substance
23 containing a detectable amount of:

24

1 (1) coca leaves, except coca leaves and extracts of
2 coca leaves from which cocaine, ecgonine, and
3 derivatives of ecgonine or their salts have been
4 removed,

5 (2) cocaine, its salts, optical and geometric
6 isomers, and salts of isomers,

7 (3) ecgonine, its derivatives, their salts, isomers,
8 and salts of isomers, or

9 (4) any compound, mixture, or preparation which
10 contains any quantity of any of the substances
11 referred to in divisions (1) through (3) of this
12 subparagraph,

13 c. fifty (50) grams or more of a mixture or substance
14 described in division (2) of subparagraph b of this
15 paragraph which contains cocaine base,

16 d. one hundred (100) grams or more of phencyclidine (PCP)
17 or 1 kilogram or more of a mixture or substance
18 containing a detectable amount of phencyclidine (PCP),

19 e. ten (10) grams or more of a mixture or substance
20 containing a detectable amount of lysergic acid
21 diethylamide (LSD),

22 f. four hundred (400) grams or more of a mixture or
23 substance containing a detectable amount of N-phenyl-
24 N-[1-(2-pheylethy)-4-piperidinyl] propanamide or 100

1 grams or more of a mixture or substance containing a
2 detectable amount of any analogue of N-phenyl-N-[1-(2-
3 phenylethyl)-4-piperidiny] propanamide,

4 g. one thousand (1,000) kilograms or more of a mixture or
5 substance containing a detectable amount of marihuana
6 or one thousand (1000) or more marihuana plants
7 regardless of weight, or

8 h. fifty (50) grams or more of methamphetamine, its
9 salts, isomers, and salts of its isomers or 500 grams
10 or more of a mixture or substance containing a
11 detectable amount of methamphetamine, its salts,
12 isomers, or salts of its isomers,

13 upon conviction, is guilty of aggravated manufacturing a controlled
14 dangerous substance punishable by imprisonment for not less than
15 twenty (20) years nor more than life and by a fine of not less than
16 Fifty Thousand Dollars (\$50,000.00), which shall be in addition to
17 other punishment provided by law and shall not be imposed in lieu of
18 other punishment. Any person convicted of a violation of the
19 provisions of this paragraph shall be required to serve a minimum of
20 eighty-five percent (85%) of the sentence received prior to becoming
21 eligible for state correctional earned credits towards the
22 completion of the sentence or eligible for parole.

23 4. Any sentence to the custody of the Department of Corrections
24 for any violation of paragraph 3 of this subsection shall not be

1 subject to statutory provisions for suspended sentences, deferred
2 sentences, or probation. A person convicted of a second or
3 subsequent violation of the provisions of paragraph 3 of this
4 subsection shall be punished as a habitual offender pursuant to
5 Section 51.1 of Title 21 of the Oklahoma Statutes and shall be
6 required to serve a minimum of eighty-five percent (85%) of the
7 sentence received prior to becoming eligible for state correctional
8 earned credits or eligibility for parole.

9 5. Any person who has been convicted of manufacturing or
10 attempting to manufacture methamphetamine pursuant to the provisions
11 of this subsection and who, after such conviction, purchases or
12 attempts to purchase, receive or otherwise acquire any product,
13 mixture, or preparation containing any detectable quantity of base
14 pseudoephedrine or ephedrine shall, upon conviction, be guilty of a
15 felony punishable by imprisonment in the custody of the Department
16 of Corrections for a term in the range of twice the minimum term
17 provided for in paragraph 2 of this subsection.

18 H. Any person convicted of any offense described in the Uniform
19 Controlled Dangerous Substances Act may, in addition to the fine
20 imposed, be assessed an amount not to exceed ten percent (10%) of
21 the fine imposed. Such assessment shall be paid into a revolving
22 fund for enforcement of controlled dangerous substances created
23 pursuant to Section 2-506 of this title.

24

1 I. Any person convicted of any offense described in this
2 section shall, in addition to any fine imposed, pay a special
3 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
4 deposited into the Trauma Care Assistance Revolving Fund created in
5 Section 1-2522 of this title.

6 J. For purposes of this section, "public housing project" means
7 any dwelling or accommodations operated as a state or federally
8 subsidized multifamily housing project by any housing authority,
9 nonprofit corporation or municipal developer or housing projects
10 created pursuant to the Oklahoma Housing Authorities Act.

11 K. When a person is found guilty of a violation of the
12 provisions of this section, the court shall order, in addition to
13 any other penalty, the defendant to pay a one-hundred-dollar
14 assessment to be deposited in the Drug Abuse Education and Treatment
15 Revolving Fund created in Section 2-503.2 of this title, upon
16 collection.

17 L. Any person convicted of a second or subsequent felony
18 violation of the provisions of this section, except for paragraphs 1
19 and 2 of subsection B of this section, paragraphs 2, 3, 4 and 5 of
20 subsection C of this section, paragraphs 1, 2, and 3 of subsection E
21 of this section and paragraphs 1 and 2 of subsection F of this
22 section, shall be punished as a habitual offender pursuant to
23 Section 51.1 of Title 21 of the Oklahoma Statutes.
24

1 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-415, as
2 last amended by Section 1, Chapter 258, O.S.L. 2015 (63 O.S. Supp.
3 2017, Section 2-415), is amended to read as follows:

4 Section 2-415. A. The provisions of the Trafficking in Illegal
5 Drugs Act shall apply to persons convicted of violations with
6 respect to the following substances:

- 7 1. Marihuana;
- 8 2. Cocaine or coca leaves;
- 9 3. Heroin;
- 10 4. Amphetamine or methamphetamine;
- 11 5. Lysergic acid diethylamide (LSD);
- 12 6. Phencyclidine (PCP);
- 13 7. Cocaine base, commonly known as "crack" or "rock";
- 14 8. 3,4-Methylenedioxy methamphetamine, commonly known as
15 "ecstasy" or MDMA;
- 16 9. Morphine;
- 17 10. Oxycodone;
- 18 11. Hydrocodone; or
- 19 12. Benzodiazepine.

20 B. Except as otherwise authorized by the Uniform Controlled
21 Dangerous Substances Act, it shall be unlawful for any person to:

- 22 1. Knowingly distribute, manufacture, bring into this state or
23 possess a controlled substance specified in subsection A of this
24 section in the quantities specified in subsection C of this section;

1 2. Possess any controlled substance with the intent to
2 manufacture a controlled substance specified in subsection A of this
3 section in quantities specified in subsection C of this section; or

4 3. Use or solicit the use of services of a person less than
5 eighteen (18) years of age to distribute or manufacture a controlled
6 dangerous substance specified in subsection A of this section in
7 quantities specified in subsection C of this section.

8 Violation of this section shall be known as "trafficking in
9 illegal drugs". Separate types of controlled substances described
10 in subsection A of this section when possessed at the same time in
11 violation of any provision of this section shall constitute a
12 separate offense for each substance.

13 Any person who commits the conduct described in paragraph 1, 2
14 or 3 of this subsection and represents the quantity of the
15 controlled substance to be an amount described in subsection C of
16 this section shall be punished under the provisions appropriate for
17 the amount of controlled substance represented, regardless of the
18 actual amount.

19 C. In the case of a violation of the provisions of subsection B
20 of this section, involving:

21 1. Marihuana:

22 a. twenty-five (25) pounds or more of a mixture or
23 substance containing a detectable amount of marihuana
24 shall be punishable by a fine of not less than Twenty-

1 five Thousand Dollars (\$25,000.00) and not more than
2 One Hundred Thousand Dollars (\$100,000.00), or

- 3 b. one thousand (1,000) pounds or more of a mixture or
4 substance containing a detectable amount of marihuana
5 shall be deemed aggravated trafficking punishable by a
6 fine of not less than One Hundred Thousand Dollars
7 (\$100,000.00) and not more than Five Hundred Thousand
8 Dollars (\$500,000.00);

9 2. Cocaine ~~or~~, coca leaves cocaine base:

- 10 a. twenty-eight (28) grams or more of a mixture or
11 substance containing a detectable amount of cocaine
12 ~~or~~, coca leaves or cocaine base shall be punishable by
13 a fine of not less than Twenty-five Thousand Dollars
14 (\$25,000.00) and not more than One Hundred Thousand
15 Dollars (\$100,000.00),
- 16 b. three hundred (300) grams or more of a mixture or
17 substance containing a detectable amount of cocaine
18 ~~or~~, coca leaves or cocaine base shall be punishable by
19 a fine of not less than One Hundred Thousand Dollars
20 (\$100,000.00) and not more than Five Hundred Thousand
21 Dollars (\$500,000.00), or
- 22 c. four hundred fifty (450) grams or more of a mixture or
23 substance containing a detectable amount of cocaine
24 ~~or~~, coca leaves or cocaine base shall be deemed

1 aggravated trafficking punishable by a fine of not
2 less than One Hundred Thousand Dollars (\$100,000.00)
3 and not more than Five Hundred Thousand Dollars
4 (\$500,000.00);

5 3. Heroin:

- 6 a. ten (10) grams or more of a mixture or substance
7 containing a detectable amount of heroin shall be
8 punishable by a fine of not less than Twenty-five
9 Thousand Dollars (\$25,000.00) and not more than Fifty
10 Thousand Dollars (\$50,000.00), or
11 b. twenty-eight (28) grams or more of a mixture or
12 substance containing a detectable amount of heroin
13 shall be punishable by a fine of not less than Fifty
14 Thousand Dollars (\$50,000.00) and not more than Five
15 Hundred Thousand Dollars (\$500,000.00);

16 4. Amphetamine or methamphetamine:

- 17 a. twenty (20) grams or more of a mixture or substance
18 containing a detectable amount of amphetamine or
19 methamphetamine shall be punishable by a fine of not
20 less than Twenty-five Thousand Dollars (\$25,000.00)
21 and not more than Two Hundred Thousand Dollars
22 (\$200,000.00),
23 b. two hundred (200) grams or more of a mixture or
24 substance containing a detectable amount of

1 amphetamine or methamphetamine shall be punishable by
2 a fine of not less than Fifty Thousand Dollars
3 (\$50,000.00) and not more than Five Hundred Thousand
4 Dollars (\$500,000.00), or

- 5 c. four hundred fifty (450) grams or more of a mixture or
6 substance containing a detectable amount of
7 amphetamine or methamphetamine shall be deemed
8 aggravated trafficking punishable by a fine of not
9 less than Fifty Thousand Dollars (\$50,000.00) and not
10 more than Five Hundred Thousand Dollars (\$500,000.00);

11 5. Lysergic acid diethylamide (LSD):

- 12 a. one (1) gram or more of a mixture or substance
13 containing a detectable amount of lysergic acid
14 diethylamide (LSD) shall be punishable by a fine of
15 not less than Fifty Thousand Dollars (\$50,000.00) and
16 not more than One Hundred Thousand Dollars
17 (\$100,000.00), or

- 18 b. ten (10) grams or more of a mixture or substance
19 containing a detectable amount of lysergic acid
20 diethylamide (LSD) shall be punishable by a fine of
21 not less than One Hundred Thousand Dollars
22 (\$100,000.00) and not more than Two Hundred Fifty
23 Thousand Dollars (\$250,000.00);

24 6. Phencyclidine (PCP):

- 1 a. twenty (20) grams or more of a substance containing a
2 mixture or substance containing a detectable amount of
3 phencyclidine (PCP) shall be punishable by a fine of
4 not less than Twenty Thousand Dollars (\$20,000.00) and
5 not more than Fifty Thousand Dollars (\$50,000.00), or
6 b. one hundred fifty (150) grams or more of a substance
7 containing a mixture or substance containing a
8 detectable amount of phencyclidine (PCP) shall be
9 punishable by a fine of not less than Fifty Thousand
10 Dollars (\$50,000.00) and not more than Two Hundred
11 Fifty Thousand Dollars (\$250,000.00);

12 7. ~~Cocaine base:~~

- 13 ~~a. five (5) grams or more of a mixture or substance~~
14 ~~described in paragraph 2 of this subsection which~~
15 ~~contains cocaine base shall be punishable by a fine of~~
16 ~~not less than Twenty-five Thousand Dollars~~
17 ~~(\$25,000.00) and not more than One Hundred Thousand~~
18 ~~Dollars (\$100,000.00), or~~
19 ~~b. fifty (50) grams or more of a mixture or substance~~
20 ~~described in paragraph 2 of this subsection which~~
21 ~~contains cocaine base shall be punishable by a fine of~~
22 ~~not less than One Hundred Thousand Dollars~~
23 ~~(\$100,000.00) and not more than Five Hundred Thousand~~
24 ~~Dollars (\$500,000.00);~~

1 ~~8.~~ Methylenedioxy methamphetamine:

2 a. thirty (30) tablets or ten (10) grams of a mixture or
3 substance containing a detectable amount of 3,4-
4 Methylenedioxy methamphetamine shall be trafficking
5 punishable by a term of imprisonment in the custody of
6 the Department of Corrections not to exceed twenty
7 (20) years and by a fine of not less than Twenty-five
8 Thousand Dollars (\$25,000.00) and not more than One
9 Hundred Thousand Dollars (\$100,000.00), or

10 b. one hundred (100) tablets or thirty (30) grams of a
11 mixture or substance containing a detectable amount of
12 3,4-Methylenedioxy methamphetamine shall be aggravated
13 trafficking punishable by a term of imprisonment in
14 the custody of the Department of Corrections of not
15 less than two (2) years nor more than life by a fine
16 of not less than One Hundred Thousand Dollars
17 (\$100,000.00) and not more than Five Hundred Thousand
18 Dollars (\$500,000.00);

19 ~~9.~~ 8. Morphine: One thousand (1,000) grams or more of a
20 mixture containing a detectable amount of morphine shall be
21 trafficking punishable by a term of imprisonment in the custody of
22 the Department of Corrections not to exceed twenty (20) years and by
23 a fine of not less than One Hundred Thousand Dollars (\$100,000.00)
24 and not more than Five Hundred Thousand Dollars (\$500,000.00);

1 ~~10.~~ 9. Oxycodone: Four hundred (400) grams or more of a
2 mixture containing a detectable amount of oxycodone shall be
3 trafficking punishable by a term of imprisonment in the custody of
4 the Department of Corrections not to exceed twenty (20) years and by
5 a fine of not less than One Hundred Thousand Dollars (\$100,000.00)
6 and not more than Five Hundred Thousand Dollars (\$500,000.00);

7 ~~11.~~ 10. Hydrocodone: Three thousand seven hundred and fifty
8 (3,750) grams or more of a mixture containing a detectable amount of
9 hydrocodone shall be trafficking punishable by a term of
10 imprisonment in the custody of the Department of Corrections not to
11 exceed twenty (20) years and by a fine of not less than One Hundred
12 Thousand Dollars (\$100,000.00) and not more than Five Hundred
13 Thousand Dollars (\$500,000.00); and

14 ~~12.~~ 11. Benzodiazepine: Five hundred (500) grams or more of a
15 mixture containing a detectable amount of benzodiazepine shall be
16 trafficking punishable by a term of imprisonment not to exceed
17 twenty (20) years and by a fine of not less than One Hundred
18 Thousand Dollars (\$100,000.00) and not more than Five Hundred
19 Thousand Dollars (\$500,000.00).

20 D. Any person who violates the provisions of this section with
21 respect to a ~~controlled substance specified in subsection A of this~~
22 ~~section~~ marihuana, cocaine, coca leaves, cocaine base, heroin,
23 amphetamine or methamphetamine in a quantity specified in paragraphs
24 1, 2, 3 and 4 of subsection C of this section shall, in addition to

1 any fines specified by this section, be punishable by a term of
2 imprisonment as follows:

3 ~~1. Not less than twice the term of imprisonment provided for in~~
4 ~~Section 2-401 of this title~~ For trafficking, a first violation of
5 this section, a term of imprisonment in the custody of the
6 Department of Corrections not to exceed twenty (20) years;

7 ~~2. If the person has previously been convicted of one violation~~
8 ~~of this section or has been previously convicted of a felony~~
9 ~~violation of the Uniform Controlled Dangerous Substances Act arising~~
10 ~~from separate and distinct transactions, not less than three times~~
11 ~~the term of imprisonment provided for in Section 2-401 of this~~
12 ~~title;~~

13 ~~3. If the person has previously been convicted of two or more~~
14 ~~violations of this section or any provision of the Uniform~~
15 ~~Controlled Dangerous Substances Act which constitutes a felony, or a~~
16 ~~combination of such violations arising out of separate and distinct~~
17 ~~transactions, not less than twenty (20) years to life imprisonment~~
18 ~~or life without parole; provided, if the person has been previously~~
19 ~~convicted of two or more drug trafficking violations, the punishment~~
20 ~~shall be life without parole; and~~

21 For trafficking, a second violation of this section, a term of
22 imprisonment in the Department of Corrections of not less than four
23 (4) years nor more than life, for which the person shall serve fifty
24

1 percent (50%) of the sentence before being eligible for parole
2 consideration;

3 3. For trafficking, a third or subsequent violation of this
4 section, a term of imprisonment in the custody of the Department of
5 Corrections of not less than twenty (20) years nor more than life,
6 of which the person shall serve fifty percent (50%) of the sentence
7 before being eligible for parole consideration.

8 Persons convicted of trafficking shall not be eligible for
9 earned credits or any other type of credits which have the effect of
10 reducing the length of sentence to less than fifty percent (50%) of
11 the sentence imposed; and

12 ~~4.~~ If the person is convicted of aggravated trafficking as
13 provided in subparagraph b of paragraph 1 of subsection C of this
14 section, subparagraph c of paragraph 2 of subsection C of this
15 section or subparagraph c of paragraph 4 of subsection C of this
16 section, a ~~mandatory minimum~~ sentence of imprisonment in the custody
17 of the Department of Corrections as provided in paragraphs 1, 2 and
18 3 of subsection D of this section, for a term of fifteen (15) years
19 of which the person shall serve eighty-five percent (85%) of such
20 ~~mandatory~~ sentence before being eligible for parole consideration ~~or~~
21 ~~any earned credits.~~

22 ~~The terms of imprisonment specified in this subsection shall not~~
23 ~~be subject to statutory provisions for suspension, deferral or~~
24 ~~probation, or state correctional institution earned credits accruing~~

1 ~~from and after November 1, 1989, except for the achievement earned~~
2 ~~credits authorized by subsection H of Section 138 of Title 57 of the~~
3 ~~Oklahoma Statutes. To qualify for such achievement credits, such~~
4 ~~inmates must also be in compliance with the standards for Class~~
5 ~~level 2 behavior, as defined in subsection D of Section 138 of Title~~
6 ~~57 of the Oklahoma Statutes.~~

7 ~~Persons convicted of violations of this section shall not be~~
8 ~~eligible for appeal bonds.~~

9 ~~E. F. The penalties specified in subsections C and D of this~~
10 ~~section are subject to the enhancements enumerated in subsections E~~
11 ~~and F of Section 2-401 of this title.~~

12 G. Any person convicted of any offense described in this
13 section shall, in addition to any fine imposed, pay a special
14 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
15 deposited into the Trauma Care Assistance Revolving Fund created in
16 Section 1-2530.9 of this title and the assessment pursuant to
17 Section 2-503.2 of this title.

18 SECTION 3. AMENDATORY 63 O.S. 2011, Section 2-509, as
19 amended by Section 2, Chapter 25, O.S.L. 2017 (63 O.S. Supp. 2017,
20 Section 2-509), is amended to read as follows:

21 Section 2-509. A. All species of plants from which controlled
22 dangerous substances in Schedules I and II may be derived are hereby
23 declared inimical to health and welfare of the public, and the
24

1 intent of the Legislature is to control and eradicate these species
2 of the plants in the State of Oklahoma.

3 B. It shall be unlawful for any person to cultivate or produce,
4 or to knowingly permit the cultivation, production, or wild growing
5 of any species of such plants, on any lands owned or controlled by
6 such person, and it is hereby declared the duty of every such person
7 to destroy all such plants found growing on lands owned or
8 controlled by the person.

9 C. 1. Whenever any peace officer of the state shall receive
10 information that any species of any such plants has been found
11 growing on any private lands in the State of Oklahoma, the peace
12 officer shall notify the sheriff and county commissioners of the
13 county wherein such plants are found growing. Within five (5) days
14 of receipt of such notice, the county commissioners shall notify the
15 owner or person in possession of such lands that such plants have
16 been found growing on the ~~said~~ the lands and that the same must be
17 destroyed or eradicated within fifteen (15) days. When the fifteen
18 (15) days have elapsed, the reporting peace officer shall cause an
19 investigation to be made of the aforesaid lands, and if any such
20 plants be found growing thereon, the county commissioners shall
21 cause the same to be destroyed or eradicated by either cutting and
22 burning or by applications of herbicides approved for such purpose
23 and registered for use in Oklahoma by the Oklahoma Department of
24

1 Agriculture, Food, and Forestry in accordance with Section 2-505 of
2 this title.

3 2. Whenever any such plants are destroyed or eradicated by
4 order of the county commissioners as provided herein, the cost of
5 the same shall, if the work or labor be furnished by the county
6 commissioners, be taxed against the lands whereon the work was
7 performed, and shall be a lien upon such land in all manner and
8 respects as a lien of judgment, if the owner is charged with a
9 violation of subsection B of this section. If the violation of
10 subsection B of this section is by a person other than the owner of
11 the land, without the knowledge of the owner, the costs shall be
12 paid by the initiating law enforcement agency.

13 D. Knowingly violating the provisions of subsection B or
14 subsection H of this section is hereby declared, as to the owner, or
15 person in possession of such lands, to be a felony and upon
16 conviction punishable as such by a fine not to exceed Fifty Thousand
17 Dollars (\$50,000.00) and imprisonment in the custody of the
18 Department of Corrections for not ~~less~~ more than ~~two (2)~~ ten (10)
19 years ~~nor more than life~~. The fine provided for in this subsection
20 shall be in addition to other punishments provided by law and shall
21 not be in lieu of other punishment. Any person convicted of a
22 second ~~or subsequent~~ violation of subsection B or subsection H of
23 this section is, upon conviction, punishable by a term of
24 imprisonment ~~twice that otherwise authorized~~ in the custody of the

1 Department of Corrections for not less than two (2) years nor more
2 than twenty (20) years and by twice the fine otherwise authorized.
3 ~~Any sentence shall not be subject to statutory provisions for~~
4 ~~suspended sentences, deferred sentences or probation, except when~~
5 ~~the conviction is for a first offense~~ Any person convicted of a
6 third or subsequent violation of subsection B or subsection H of
7 this section is punishable by a term of imprisonment in the custody
8 of the Department of Corrections for not less than ten (10) years
9 nor more than life.

10 E. It shall be the duty of any peace officer of the State of
11 Oklahoma who receives information of such plants growing in the
12 State of Oklahoma, to make notice, in writing, to the Oklahoma State
13 Bureau of Narcotics and Dangerous Drugs Control and the future
14 destruction or eradication of the annual growth of such plants shall
15 be supervised by the Oklahoma State Bureau of Narcotics and
16 Dangerous Drugs Control. Any destruction or eradication of the
17 annual growth of such plants supervised by the Bureau shall be by
18 cutting and burning the same or by destruction and eradication
19 through applications of herbicides approved for such purpose and
20 registered for use in Oklahoma by the Oklahoma Department of
21 Agriculture, Food, and Forestry.

22 F. Any application of herbicides authorized by this section
23 shall be made pursuant to the provisions of Section 2-505 of this
24 title.

1 G. In lieu of the eradication procedures provided for in
2 subsections B and C of this section, all species of plants from
3 which controlled dangerous substances in Schedules I and II of the
4 Uniform Controlled Dangerous Substances Act may be derived, may be
5 disposed of pursuant to the provisions of subsection C of Section 2-
6 505 of this title.

7 H. Except as authorized by the Uniform Controlled Dangerous
8 Substances Act, it shall be unlawful for any person to manufacture
9 or attempt to manufacture any controlled dangerous substance by
10 cooking, burning, or extracting and converting or attempting to
11 extract and convert marihuana or marihuana oil into hashish, hashish
12 oil or hashish powder.

13 SECTION 4. This act shall become effective November 1, 2018.

14
15 56-2-3480 BH 7/17/2018 9:59:01 AM

16
17
18
19
20
21
22
23
24