

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 ENGROSSED SENATE
5 BILL NO. 1078

By: Griffin of the Senate

and

Downing, McCall, Sanders
and O'Donnell of the House

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10 An Act relating to controlled dangerous substances;
11 amending 63 O.S. 2011, Section 2-415, as last amended
12 by Section 1, Chapter 258, O.S.L. 2015 (63 O.S. Supp.
13 2017, Section 2-415), which relates to the
14 Trafficking in Illegal Drugs Act; adding fentanyl to
15 list of substances subject to trafficking penalties;
16 providing fine amount for fentanyl trafficking
17 convictions; and providing an effective date.

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

19 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-415, as
20 last amended by Section 1, Chapter 258, O.S.L. 2015 (63 O.S. Supp.
21 2017, Section 2-415), is amended to read as follows:

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

1. Marihuana;
2. Cocaine or coca leaves;

3. Heroin;
4. Amphetamine or methamphetamine;
5. Lysergic acid diethylamide (LSD);
6. Phencyclidine (PCP);
7. Cocaine base, commonly known as "crack" or "rock";
8. 3,4-Methylenedioxy methamphetamine, commonly known as "ecstasy" or MDMA;
9. Morphine;
10. Oxycodone;
11. Hydrocodone; ~~or~~
12. Benzodiazepine; or
13. Fentanyl and its analogs and derivatives.

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

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

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

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

1 Violation of this section shall be known as "trafficking in
2 illegal drugs". Separate types of controlled substances described
3 in subsection A of this section when possessed at the same time in
4 violation of any provision of this section shall constitute a
5 separate offense for each substance.

6 Any person who commits the conduct described in paragraph 1, 2
7 or 3 of this subsection and represents the quantity of the
8 controlled substance to be an amount described in subsection C of
9 this section shall be punished under the provisions appropriate for
10 the amount of controlled substance represented, regardless of the
11 actual amount.

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

14 1. Marihuana:

- 15 a. twenty-five (25) pounds or more of a mixture or
16 substance containing a detectable amount of marihuana
17 shall be punishable by a fine of not less than Twenty-
18 five Thousand Dollars (\$25,000.00) and not more than
19 One Hundred Thousand Dollars (\$100,000.00), or
20 b. one thousand (1,000) pounds or more of a mixture or
21 substance containing a detectable amount of marihuana
22 shall be deemed aggravated trafficking punishable by a
23 fine of not less than One Hundred Thousand Dollars
24

1 (\$100,000.00) and not more than Five Hundred Thousand
2 Dollars (\$500,000.00);

3 2. Cocaine or coca leaves:

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

21 3. Heroin:

- 22 a. ten (10) grams or more of a mixture or substance
23 containing a detectable amount of heroin shall be
24 punishable by a fine of not less than Twenty-five

1 Thousand Dollars (\$25,000.00) and not more than Fifty
2 Thousand Dollars (\$50,000.00), or
3 b. twenty-eight (28) grams or more of a mixture or
4 substance containing a detectable amount of heroin
5 shall be punishable by a fine of not less than Fifty
6 Thousand Dollars (\$50,000.00) and not more than Five
7 Hundred Thousand Dollars (\$500,000.00);

8 4. Amphetamine or methamphetamine:

9 a. twenty (20) grams or more of a mixture or substance
10 containing a detectable amount of amphetamine or
11 methamphetamine shall be punishable by a fine of not
12 less than Twenty-five Thousand Dollars (\$25,000.00)
13 and not more than Two Hundred Thousand Dollars
14 (\$200,000.00),

15 b. two hundred (200) grams or more of a mixture or
16 substance containing a detectable amount of
17 amphetamine or methamphetamine shall be punishable by
18 a fine of not less than Fifty Thousand Dollars
19 (\$50,000.00) and not more than Five Hundred Thousand
20 Dollars (\$500,000.00), or

21 c. four hundred fifty (450) grams or more of a mixture or
22 substance containing a detectable amount of
23 amphetamine or methamphetamine shall be deemed
24 aggravated trafficking punishable by a fine of not

1 less than Fifty Thousand Dollars (\$50,000.00) and not
2 more than Five Hundred Thousand Dollars (\$500,000.00);

3 5. Lysergic acid diethylamide (LSD):

4 a. one (1) gram or more of a mixture or substance
5 containing a detectable amount of lysergic acid
6 diethylamide (LSD) shall be punishable by a fine of
7 not less than Fifty Thousand Dollars (\$50,000.00) and
8 not more than One Hundred Thousand Dollars
9 (\$100,000.00), or

10 b. ten (10) grams or more of a mixture or substance
11 containing a detectable amount of lysergic acid
12 diethylamide (LSD) shall be punishable by a fine of
13 not less than One Hundred Thousand Dollars
14 (\$100,000.00) and not more than Two Hundred Fifty
15 Thousand Dollars (\$250,000.00);

16 6. Phencyclidine (PCP):

17 a. twenty (20) grams or more of a substance containing a
18 mixture or substance containing a detectable amount of
19 phencyclidine (PCP) shall be punishable by a fine of
20 not less than Twenty Thousand Dollars (\$20,000.00) and
21 not more than Fifty Thousand Dollars (\$50,000.00), or

22 b. one hundred fifty (150) grams or more of a substance
23 containing a mixture or substance containing a
24 detectable amount of phencyclidine (PCP) shall be

1 punishable by a fine of not less than Fifty Thousand
2 Dollars (\$50,000.00) and not more than Two Hundred
3 Fifty Thousand Dollars (\$250,000.00);

4 7. Cocaine base:

- 5 a. five (5) grams or more of a mixture or substance
6 described in paragraph 2 of this subsection which
7 contains cocaine base shall be punishable by a fine of
8 not less than Twenty-five Thousand Dollars
9 (\$25,000.00) and not more than One Hundred Thousand
10 Dollars (\$100,000.00), or
11 b. fifty (50) grams or more of a mixture or substance
12 described in paragraph 2 of this subsection which
13 contains cocaine base shall be punishable by a fine of
14 not less than One Hundred Thousand Dollars
15 (\$100,000.00) and not more than Five Hundred Thousand
16 Dollars (\$500,000.00);

17 8. Methylenedioxy methamphetamine:

- 18 a. thirty (30) tablets or ten (10) grams of a mixture or
19 substance containing a detectable amount of 3,4-
20 Methylenedioxy methamphetamine shall be punishable by
21 a fine of not less than Twenty-five Thousand Dollars
22 (\$25,000.00) and not more than One Hundred Thousand
23 Dollars (\$100,000.00), or
24

b. one hundred (100) tablets or thirty (30) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

9. Morphine: One thousand (1,000) grams or more of a mixture containing a detectable amount of morphine shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

10. Oxycodone: Four hundred (400) grams or more of a mixture containing a detectable amount of oxycodone shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

11. Hydrocodone: Three thousand seven hundred and fifty (3,750) grams or more of a mixture containing a detectable amount of hydrocodone shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00); ~~and~~

12. Benzodiazepine: Five hundred (500) grams or more of a mixture containing a detectable amount of benzodiazepine shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00); and

1 13. Fentanyl and its analogs and derivatives: One (1) gram or
2 more of a mixture containing fentanyl or carfentanil, or any
3 fentanyl analogs or derivatives shall be punishable by a fine of not
4 less than One Hundred Thousand Dollars (\$100,000.00) and not more
5 than Five Hundred Thousand Dollars (\$500,000.00).

6 D. Any person who violates the provisions of this section with
7 respect to a controlled substance specified in subsection A of this
8 section in a quantity specified in subsection C of this section
9 shall, in addition to any fines specified by this section, be
10 punishable by a term of imprisonment as follows:

11 1. Not less than twice the term of imprisonment provided for in
12 Section 2-401 of this title;

13 2. If the person has previously been convicted of one violation
14 of this section or has been previously convicted of a felony
15 violation of the Uniform Controlled Dangerous Substances Act arising
16 from separate and distinct transactions, not less than three times
17 the term of imprisonment provided for in Section 2-401 of this
18 title;

19 3. If the person has previously been convicted of two or more
20 violations of this section or any provision of the Uniform
21 Controlled Dangerous Substances Act which constitutes a felony, or a
22 combination of such violations arising out of separate and distinct
23 transactions, not less than twenty (20) years to life imprisonment
24 or life without parole; provided, if the person has been previously

1 convicted of two or more drug trafficking violations, the punishment
2 shall be life without parole; and

3 4. If the person is convicted of aggravated trafficking as
4 provided in subparagraph b of paragraph 1 of subsection C of this
5 section, subparagraph c of paragraph 2 of subsection C of this
6 section or subparagraph c of paragraph 4 of subsection C of this
7 section, a mandatory minimum sentence of imprisonment in the custody
8 of the Department of Corrections for a term of fifteen (15) years of
9 which the person shall serve eighty-five percent (85%) of such
10 mandatory sentence before being eligible for parole consideration or
11 any earned credits.

12 The terms of imprisonment specified in this subsection shall not
13 be subject to statutory provisions for suspension, deferral or
14 probation, or state correctional institution earned credits accruing
15 from and after November 1, 1989, except for the achievement earned
16 credits authorized by subsection H of Section 138 of Title 57 of the
17 Oklahoma Statutes. To qualify for such achievement credits, such
18 inmates must also be in compliance with the standards for Class
19 level 2 behavior, as defined in subsection D of Section 138 of Title
20 57 of the Oklahoma Statutes.

21 Persons convicted of violations of this section shall not be
22 eligible for appeal bonds.

23 E. Any person convicted of any offense described in this
24 section shall, in addition to any fine imposed, pay a special

1 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
2 deposited into the Trauma Care Assistance Revolving Fund created in
3 Section 1-2530.9 of this title and the assessment pursuant to
4 Section 2-503.2 of this title.

5 SECTION 2. This act shall become effective November 1, 2018.

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7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/28/2018 - DO
8 PASS.

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