

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1078

By: Griffin

6 AS INTRODUCED

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

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

14 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-415, as
15 last amended by Section 1, Chapter 258, O.S.L. 2015 (63 O.S. Supp.
16 2017, Section 2-415), is amended to read as follows:

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

- 20 1. Marihuana;
- 21 2. Cocaine or coca leaves;
- 22 3. Heroin;
- 23 4. Amphetamine or methamphetamine;
- 24 5. Lysergic acid diethylamide (LSD);

1 6. Phencyclidine (PCP);

2 7. Cocaine base, commonly known as "crack" or "rock";

3 8. 3,4-Methylenedioxy methamphetamine, commonly known as
4 "ecstasy" or MDMA;

5 9. Morphine;

6 10. Oxycodone;

7 11. Hydrocodone; ~~or~~

8 12. Benzodiazepine; or

9 13. Fentanyl and its analogs and derivatives.

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

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

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

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

22 Violation of this section shall be known as "trafficking in
23 illegal drugs". Separate types of controlled substances described
24 in subsection A of this section when possessed at the same time in

1 violation of any provision of this section shall constitute a
2 separate offense for each substance.

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

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

11 1. Marihuana:

12 a. twenty-five (25) pounds or more of a mixture or
13 substance containing a detectable amount of marihuana
14 shall be punishable by a fine of not less than Twenty-
15 five Thousand Dollars (\$25,000.00) and not more than
16 One Hundred Thousand Dollars (\$100,000.00), or

17 b. one thousand (1,000) pounds or more of a mixture or
18 substance containing a detectable amount of marihuana
19 shall be deemed aggravated trafficking punishable by a
20 fine of not less than One Hundred Thousand Dollars
21 (\$100,000.00) and not more than Five Hundred Thousand
22 Dollars (\$500,000.00);

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

18 3. Heroin:

- 19 a. ten (10) grams or more of a mixture or substance
20 containing a detectable amount of heroin shall be
21 punishable by a fine of not less than Twenty-five
22 Thousand Dollars (\$25,000.00) and not more than Fifty
23 Thousand Dollars (\$50,000.00), or
24

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

6 4. Amphetamine or methamphetamine:

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

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

19 c. four hundred fifty (450) grams or more of a mixture or
20 substance containing a detectable amount of
21 amphetamine or methamphetamine shall be deemed
22 aggravated trafficking punishable by a fine of not
23 less than Fifty Thousand Dollars (\$50,000.00) and not
24 more than Five Hundred Thousand Dollars (\$500,000.00);

1 5. Lysergic acid diethylamide (LSD):

- 2 a. one (1) gram or more of a mixture or substance
3 containing a detectable amount of lysergic acid
4 diethylamide (LSD) shall be punishable by a fine of
5 not less than Fifty Thousand Dollars (\$50,000.00) and
6 not more than One Hundred Thousand Dollars
7 (\$100,000.00), or
8 b. ten (10) grams or more of a mixture or substance
9 containing a detectable amount of lysergic acid
10 diethylamide (LSD) shall be punishable by a fine of
11 not less than One Hundred Thousand Dollars
12 (\$100,000.00) and not more than Two Hundred Fifty
13 Thousand Dollars (\$250,000.00);

14 6. Phencyclidine (PCP):

- 15 a. twenty (20) grams or more of a substance containing a
16 mixture or substance containing a detectable amount of
17 phencyclidine (PCP) shall be punishable by a fine of
18 not less than Twenty Thousand Dollars (\$20,000.00) and
19 not more than Fifty Thousand Dollars (\$50,000.00), or
20 b. one hundred fifty (150) grams or more of a substance
21 containing a mixture or substance containing a
22 detectable amount of phencyclidine (PCP) shall be
23 punishable by a fine of not less than Fifty Thousand
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Dollars (\$50,000.00) and not more than Two Hundred
Fifty Thousand Dollars (\$250,000.00);

7. Cocaine base:

- a. five (5) grams or more of a mixture or substance described in paragraph 2 of this subsection which contains cocaine base shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- b. fifty (50) grams or more of a mixture or substance described in paragraph 2 of this subsection which contains cocaine base 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);

8. Methylenedioxy methamphetamine:

- a. thirty (30) tablets or ten (10) 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 Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- 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

13. Fentanyl and its analogs and derivatives: One (1) gram or more of a mixture containing fentanyl or carfentanil, or any

1 fentanyl analogs or derivatives shall be punishable by a fine of not
2 less than One Hundred Thousand Dollars (\$100,000.00) and not more
3 than Five Hundred Thousand Dollars (\$500,000.00).

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

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

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

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

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

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

19 Persons convicted of violations of this section shall not be
20 eligible for appeal bonds.

21 E. Any person convicted of any offense described in this
22 section shall, in addition to any fine imposed, pay a special
23 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
24 deposited into the Trauma Care Assistance Revolving Fund created in

1 Section 1-2530.9 of this title and the assessment pursuant to
2 Section 2-503.2 of this title.

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