

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1438

By: Humphrey

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5
6 AS INTRODUCED

7 An Act relating to controlled dangerous substances;
8 amending 63 O.S. 2011, Section 2-402, as last amended
9 by Section 3, State Question No. 780, Petition No.
10 404, which relates to the Uniform Controlled
11 Dangerous Substances Act; providing punishment for
12 third or subsequent convictions; providing an
13 effective date; and declaring an emergency.

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 last amended by Section 3, State Question No. 780, Petition No. 404,
17 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

1 Dangerous Substances Act pursuant to Section 2-313 of this title in
2 an amount or within a time interval other than that permitted by
3 Section 2-313 of this title.

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

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

18 B. 1. Any person who violates this section is guilty of a
19 misdemeanor punishable by confinement for not more than one (1) year
20 and by a fine not exceeding One Thousand Dollars (\$1,000.00).

21 2. Any person convicted of a third or subsequent violation of
22 this section shall be required to participate in a drug court
23 program, if available. If a drug court program is not available,
24 the person shall be required to participate in a community sanctions

1 program. If the person fails to successfully complete and graduate
2 from the drug court program or community sanctions program, the
3 person shall be sentenced to a term of imprisonment in the custody
4 of the Department of Corrections for a term of two (2) years.

5 C. Any person convicted of any offense described in this
6 section shall, in addition to any fine imposed, pay a special
7 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
8 deposited into the Trauma Care Assistance Revolving Fund created in
9 Section 1-2530.9 of this title.

10 SECTION 2. This act shall become effective July 1, 2017.

11 SECTION 3. It being immediately necessary for the preservation
12 of the public peace, health or safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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16 56-1-5837 GRS 01/10/17
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