

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2293

By: O'Donnell

4
5
6 AS INTRODUCED

7 An Act relating to controlled dangerous substances;
8 amending 63 O.S. 2011, Sections 2-328 and 2-332, as
9 amended by Section 6, Chapter 181, O.S.L. 2013 (63
10 O.S. Supp. 2016, Section 2-332), which relate to the
11 Precursor Substances Act; updating language; removing
12 certain sentencing requirement; decreasing and
13 modifying penalties; reducing quantity amount of
14 certain substances; amending 63 O.S. 2011, Section 2-
15 401, as amended by Section 4, Chapter 206, O.S.L.
16 2012 (63 O.S. Supp. 2016, Section 2-401), which
17 relates to prohibited acts and penalties under the
18 Uniform Controlled Dangerous Substances Act;
19 providing quantity amount of certain substance;
20 decreasing and deleting certain penalties; updating
21 language; making certain acts unlawful; providing
22 penalties; amending 63 O.S. 2011, Section 2-415, as
23 last amended by Section 1, Chapter 258, O.S.L. 2015
24 (63 O.S. Supp. 2016, Section 2-415), which relates to
the Trafficking in Illegal Drugs Act; modifying
threshold amounts for trafficking penalties;
decreasing and deleting certain trafficking
penalties; amending 63 O.S. 2011, Section 2-509,
which relates to the control and eradication of
certain plants; decreasing certain penalty; and
providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-328, is
amended to read as follows:

1 Section 2-328. A. A person or business who manufactures,
2 sells, transfers, furnishes, or receives a precursor substance
3 defined in Section 2-322 of this title commits an offense if the
4 person:

5 1. Does not comply with the requirements of Section 2-322, 2-
6 323 or 2-326 of this title; or

7 2. Knowingly makes a false statement in a report or record
8 required by Section 2-323 or 2-326 of this title.

9 B. Except as provided by subsection C of this section, an
10 offense under subsection A of this section is a misdemeanor and
11 punishable by imprisonment in the county jail for a term not to
12 exceed one year or by a fine not to exceed Ten Thousand Dollars
13 (\$10,000.00).

14 C. A person who manufactures, sells, transfers, or otherwise
15 furnishes a precursor substance defined in Section 2-322 of this
16 title commits an offense if the person manufactures, sells,
17 transfers, or furnishes the substance with the knowledge or intent
18 that the recipient shall use the substance to unlawfully manufacture
19 a controlled substance or a controlled substance analog.

20 D. A second or subsequent violation of subsection A of this
21 section shall be a felony punishable by imprisonment in the ~~State~~
22 Penitentiary custody of the Department of Corrections for a term of
23 not more than ten (10) years or by a fine not to exceed Twenty-five
24 Thousand Dollars (\$25,000.00), or by both such fine and

1 imprisonment. ~~Any imprisonment imposed shall not run concurrent~~
2 ~~with other imprisonment sentences for violations of other provisions~~
3 ~~of Title 63 of the Oklahoma Statutes.~~

4 E. A person who is required by Section 2-322 or 2-324 of this
5 title to have a permit for precursor substances commits an offense
6 if the person:

7 1. Purchases, obtains, or possesses a precursor substance
8 without having first obtained a permit;

9 2. Has in his possession or immediate control a precursor
10 substance with no attached permit;

11 3. Knowingly makes a false statement in an application or
12 report required by Section 2-324 or 2-326 of this title; or

13 4. Manufacturers, sells, transfers, or otherwise furnishes any
14 person or business a precursor substance defined in Section 2-322 of
15 this title, who does not have a permit.

16 F. An offense under subsection C or E of this section is a
17 felony punishable by imprisonment in the ~~State Penitentiary~~ custody
18 of the Department of Corrections for a term of not more than ~~ten~~
19 ~~(10)~~ six (6) years or by a fine not to exceed ~~Twenty five Thousand~~
20 ~~Dollars (\$25,000.00)~~ Ten Thousand Dollars (\$10,000.00), or by both
21 such fine and imprisonment. ~~Any imprisonment imposed shall not run~~
22 ~~concurrent with other imprisonment sentences for violations of other~~
23 ~~provisions of Title 63 of the Oklahoma Statutes.~~

24

1 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-332, as
2 amended by Section 6, Chapter 181, O.S.L. 2013 (63 O.S. Supp. 2016,
3 Section 2-332), is amended to read as follows:

4 Section 2-332. A. It shall be unlawful for a person to
5 knowingly and unlawfully possess a drug product containing
6 ephedrine, pseudoephedrine or phenylpropanolamine, or their salts,
7 isomers or salts of isomers with intent to use the product as a
8 precursor to manufacture methamphetamine or another controlled
9 substance.

10 B. Except as provided in this subsection, possession of a drug
11 product containing ~~more than seven and two tenths (7.2) grams of~~
12 ephedrine, pseudoephedrine or phenylpropanolamine, or their salts,
13 isomers or salts of isomers in a quantity capable of producing more
14 than twenty (20) grams of methamphetamine shall constitute a
15 rebuttable presumption of the intent to use the product as a
16 precursor to methamphetamine or another controlled substance. The
17 rebuttable presumption established by this subsection shall not
18 apply to the following persons who are lawfully possessing drug
19 products in the course of legitimate business:

- 20 1. A retail distributor of drug products or wholesaler;
- 21 2. A wholesale drug distributor, or its agents, licensed by the
22 Board of Pharmacy;
- 23 3. A manufacturer of drug products, or its agents, licensed by
24 the Board of Pharmacy;

1 4. A pharmacist licensed by the Board of Pharmacy; and

2 5. A licensed healthcare professional possessing the drug
3 products in the course of carrying out his profession.

4 C. ~~A violation~~ Any person who violates the provisions of
5 subsection A of this section with respect to:

6 1. A drug product in a quantity capable of producing twenty
7 (20) grams or less of methamphetamine or other controlled substance
8 shall, upon conviction, be guilty of a felony punishable as provided
9 for in subsection G of Section 2-401 of this title; or

10 2. A drug product in a quantity capable of producing more than
11 twenty (20) grams of methamphetamine or other controlled substance
12 shall, upon conviction, be guilty of a felony punishable by
13 imprisonment in the custody of the Department of Corrections for a
14 term not exceeding ten (10) years and a fine of not more than Ten
15 Thousand Dollars (\$10,000.00).

16 D. Any wholesaler, manufacturer, or distributor of drug
17 products containing pseudoephedrine or phenylpropanolamine, or their
18 salts, isomers, or salts of isomers shall obtain a registration
19 annually from the Oklahoma State Bureau of Narcotics and Dangerous
20 Drugs Control. Any such wholesaler, manufacturer, or distributor
21 shall keep complete records of all transactions involving such drug
22 products including the names of all parties involved in the
23 transaction and amount of the drug products involved. The records
24 shall be kept readily retrievable and separate from all other

1 invoices or records of transactions not involving such drug
2 products, and shall be maintained for not less than three (3) years.

3 E. As used in this section:

4 1. "Manufacturer" means any person within this state who
5 produces, compounds, packages, or in any manner initially prepares
6 for sale or use any drug product described in subsection D of this
7 section, or any such person in another state if they cause the
8 products to be compounded, packaged, or transported into this state;

9 2. "Wholesaler" means any person within this state or another
10 state, other than a manufacturer, who sells, transfers, or in any
11 manner furnishes a drug product described in subsection A of this
12 section to any other person in this state for the purpose of being
13 resold;

14 3. "Distributor" means any person within this state or another
15 state, other than a manufacturer or wholesaler, who sells, delivers,
16 transfers, or in any manner furnishes a drug product described in
17 subsection A of this section to any person who is not the ultimate
18 user or consumer of the product; and

19 4. "Readily retrievable" means available for inspection without
20 prior notice at the registration address if that address is within
21 the State of Oklahoma. If the registration address is in a state
22 other than Oklahoma, it means records must be furnished within three
23 (3) working days by courier, facsimile, mail or electronic mail.

24

1 F. Any substances possessed without a registration as provided
2 in subsection D of this section shall be subject to forfeiture upon
3 conviction for a violation of this section.

4 G. In addition to any administrative penalties provided by law,
5 any violation of subsection D of this section shall be a
6 misdemeanor, punishable upon conviction by a fine only in an amount
7 not more than Ten Thousand Dollars (\$10,000.00).

8 SECTION 3. AMENDATORY 63 O.S. 2011, Section 2-401, as
9 amended by Section 4, Chapter 206, O.S.L. 2012 (63 O.S. Supp. 2016,
10 Section 2-401), is amended to read as follows:

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

14 1. To distribute, dispense, transport with intent to distribute
15 or dispense, possess with intent to manufacture, distribute, or
16 dispense, a controlled dangerous substance or to solicit the use of
17 or use the services of a person less than eighteen (18) years of age
18 to cultivate, distribute or dispense a controlled dangerous
19 substance;

20 2. To create, distribute, transport with intent to distribute
21 or dispense, or possess with intent to distribute, a counterfeit
22 controlled dangerous substance; or

23 3. To distribute any imitation controlled substance as defined
24 by Section 2-101 of this title, except when authorized by the Food

1 and Drug Administration of the United States Department of Health
2 and Human Services.

3 B. Any person who violates the provisions of this section with
4 respect to:

5 1. A One-quarter (0.25) of a gram or more of a substance
6 classified in Schedule I or II which is a narcotic drug, amphetamine
7 or methamphetamine, lysergic acid diethylamide (LSD), gamma
8 butyrolactone, gamma hydroxyvalerate, gamma valerolactone, 1,4
9 butanediol, or gamma-hydroxybutyric acid as defined in Sections 2-
10 204 and 2-208 of this title, upon conviction, shall be guilty of a
11 felony and shall be sentenced to a term of imprisonment in the
12 custody of the Department of Corrections for not ~~less~~ more than five
13 (5) years ~~nor more than life~~ and a fine of not more than One Hundred
14 Thousand Dollars (\$100,000.00), which shall be in addition to other
15 punishment provided by law and shall not be imposed in lieu of other
16 punishment. ~~Any sentence to the custody of the Department of~~
17 ~~Corrections shall not be subject to statutory provisions for~~
18 ~~suspended sentences, deferred sentences, or probation except when~~
19 ~~the conviction is for a first offense;~~

20 2. Any One-quarter (0.25) of a gram or more of any other
21 controlled dangerous substance classified in Schedule I, II, III, or
22 IV, upon conviction, shall be guilty of a felony and shall be
23 sentenced to a term of imprisonment in the custody of the Department
24 of Corrections for not ~~less~~ more than ~~two (2)~~ three (3) years ~~nor~~

1 ~~more than life~~ and a fine of not more than Twenty Thousand Dollars
2 (\$20,000.00), which shall be in addition to other punishment
3 provided by law and shall not be imposed in lieu of other
4 punishment. ~~Any sentence to the custody of the Department of~~
5 ~~Corrections shall not be subject to statutory provisions for~~
6 ~~suspended sentences, deferred sentences, or probation except when~~
7 ~~the conviction is for a first offense;~~

8 3. A substance classified in Schedule V, upon conviction, shall
9 be guilty of a felony and shall be sentenced to a term of
10 imprisonment in the custody of the Department of Corrections for not
11 more than ~~five (5)~~ two (2) years and a fine of not more than One
12 Thousand Dollars (\$1,000.00), which shall be in addition to other
13 punishment provided by law and shall not be imposed in lieu of other
14 punishment; or

15 4. An imitation controlled substance as defined by Section 2-
16 101 of this title, upon conviction, shall be guilty of a misdemeanor
17 and shall be sentenced to a term of imprisonment in the county jail
18 for a period of not more than one (1) year and a fine of not more
19 than One Thousand Dollars (\$1,000.00). A person convicted of a
20 second violation of the provisions of this paragraph shall be guilty
21 of a felony and shall be sentenced to a term of imprisonment in the
22 custody of the Department of Corrections for not more than ~~five (5)~~
23 two (2) years and a fine of not more than Five Thousand Dollars
24

1 (\$5,000.00), which shall be in addition to other punishment provided
2 by law and shall not be imposed in lieu of other punishment.

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

8 2. Any person convicted of violating the provisions of ~~this~~
9 paragraph 1 of this subsection is guilty of a felony and shall be
10 punished by imprisonment in the custody of the Department of
11 Corrections for a term not to exceed ~~life~~ five (5) years and a fine
12 of not more than Twenty-five Thousand Dollars (\$25,000.00), which
13 shall be in addition to other punishment provided by law and shall
14 not be imposed in lieu of other punishment.

15 ~~3. A second or subsequent conviction for the violation of the~~
16 ~~provisions of this paragraph is a felony punishable as a habitual~~
17 ~~offender pursuant to Section 51.1 of Title 21 of the Oklahoma~~
18 ~~Statutes.~~

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

23 D. 1. Any person convicted of a second or subsequent felony
24 violation of ~~the provisions of this section~~ any provision of the

1 Uniform Controlled Dangerous Substances Act which constitutes a
2 felony as of the date of sentencing, except for paragraph 4 of
3 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~~ by twice the imprisonment otherwise authorized.

6 2. In addition, ~~the violator~~ any person convicted of a second
7 or subsequent felony violation of any provision of the Uniform
8 Controlled Dangerous Substances Act which constitutes a felony as of
9 the date of sentencing shall be fined twice the fine otherwise
10 authorized, which shall be in addition to other punishment provided
11 by law and shall not be imposed in lieu of other punishment.

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

16 E. Any person who is at least eighteen (18) years of age and
17 who violates the provisions of this section by using or soliciting
18 the use of services of a person less than eighteen (18) years of age
19 to distribute, dispense, transport with intent to distribute or
20 dispense or cultivate a controlled dangerous substance or by
21 distributing a controlled dangerous substance to a person under
22 eighteen (18) years of age, ~~is punishable by~~ or in the presence of a
23 person under twelve (12) years of age, is punishable by:
24

1 1. For a first or second violation of this section, a term of
2 imprisonment in the custody of the Department of Corrections, or by
3 the imposition of a fine or by both, not exceeding twice the fine
4 and by twice the imprisonment otherwise that authorized by the
5 appropriate provision of this section; or

6 2. For a third or subsequent violation of this section, a term
7 of imprisonment in the custody of the Department of Corrections, or
8 by the imposition of a fine or by both, not exceeding three times
9 that otherwise authorized.

10 F. Any person who violates any provision of this section by
11 transporting with intent to distribute or dispense, distributing or
12 possessing with intent to distribute a controlled dangerous
13 substance to a person, or violation of subsection G of this section,
14 in or on, or within ~~two thousand (2,000)~~ three hundred (300) feet of
15 the real property comprising a public or private elementary or
16 secondary school, public vocational school, public or private
17 college or university, or other institution of higher education,
18 recreation center or public park, including state parks and
19 recreation areas, public housing project, or child care facility as
20 defined by Section 402 of Title 10 of the Oklahoma Statutes, shall
21 be punished by:

22 1. For a first offense, a term of imprisonment in the custody
23 of the Department of Corrections, or by the imposition of a fine or
24 by both, not exceeding twice that authorized by the appropriate

1 provision of this section and shall serve a minimum of fifty percent
2 ~~(50%) of the sentence received prior to becoming eligible for state~~
3 ~~correctional institution earned credits toward the completion of the~~
4 ~~sentence; or~~

5 2. For a second violation of this section, a term of
6 imprisonment in the custody of the Department of Corrections, or by
7 the imposition of a fine or by both, not exceeding twice that
8 authorized by the appropriate provision of this section. The
9 provisions in Section 13.1 of Title 21 of the Oklahoma Statutes
10 shall apply to sentences imposed under this subsection; or

11 3. For a ~~second~~ third or subsequent ~~offense~~ violation of this
12 section, a term of imprisonment as ~~provided for a habitual offender~~
13 pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes. In
14 addition, the violator shall serve eighty-five percent (85%) of the
15 sentence received prior to becoming eligible for state correctional
16 institution earned credits toward the completion of the sentence or
17 eligibility for parole in the custody of the Department of
18 Corrections, or by the imposition of a fine or by both, not
19 exceeding three times that authorized by the appropriate provision
20 of this section, in addition to the sentencing requirements of
21 Section 13.1 of Title 21 of the Oklahoma Statutes.

22 Convictions for second and subsequent violations of the
23 provisions of this section shall not be subject to statutory
24 provisions of suspended sentences, deferred sentences or probation.

1 G. 1. Except as authorized by the Uniform Controlled Dangerous
2 Substances Act, it shall be unlawful for any person to manufacture
3 or attempt to manufacture any controlled dangerous substance in an
4 amount of one-quarter (0.25) grams or more or to possess any
5 substance listed in Section 2-322 of this title or any substance
6 containing any detectable amount of pseudoephedrine or its salts,
7 optical isomers or salts of optical isomers, iodine or its salts,
8 optical isomers or salts of optical isomers, hydriodic acid, sodium
9 metal, lithium metal, anhydrous ammonia, phosphorus, or organic
10 solvents with the intent to use that substance to manufacture a
11 controlled dangerous substance.

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

1 3. Any person violating the provisions of this subsection with
2 respect to the unlawful manufacturing or attempting to unlawfully
3 manufacture any controlled dangerous substance in the following
4 amounts:

5 a. one (1) kilogram or more of a mixture or substance
6 containing a detectable amount of heroin,

7 b. five (5) kilograms or more of a mixture or substance
8 containing a detectable amount of:

9 (1) coca leaves, except coca leaves and extracts of
10 coca leaves from which cocaine, ecgonine, and
11 derivatives of ecgonine or their salts have been
12 removed,

13 (2) cocaine, its salts, optical and geometric
14 isomers, and salts of isomers,

15 (3) ecgonine, its derivatives, their salts, isomers,
16 and salts of isomers, or

17 (4) any compound, mixture, or preparation which
18 contains any quantity of any of the substances
19 referred to in divisions (1) through (3) of this
20 subparagraph,

21 c. fifty (50) grams or more of a mixture or substance
22 described in division (2) of subparagraph b of this
23 paragraph which contains cocaine base,
24

- 1 d. one hundred (100) grams or more of phencyclidine (PCP)
2 or 1 kilogram or more of a mixture or substance
3 containing a detectable amount of phencyclidine (PCP),
4 e. ten (10) grams or more of a mixture or substance
5 containing a detectable amount of lysergic acid
6 diethylamide (LSD),
7 f. four hundred (400) grams or more of a mixture or
8 substance containing a detectable amount of N-phenyl-
9 N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100
10 grams or more of a mixture or substance containing a
11 detectable amount of any analogue of N-phenyl-N-[1-(2-
12 phenylethyl)-4-piperidinyl] propanamide,
13 g. one thousand (1,000) kilograms or more of a mixture or
14 substance containing a detectable amount of marihuana
15 or one thousand (1000) or more marihuana plants
16 regardless of weight, or
17 h. fifty (50) grams or more of methamphetamine, its
18 salts, isomers, and salts of its isomers or 500 grams
19 or more of a mixture or substance containing a
20 detectable amount of methamphetamine, its salts,
21 isomers, or salts of its isomers,

22 upon conviction, is guilty of aggravated manufacturing a controlled
23 dangerous substance punishable by imprisonment for not less than
24 ~~twenty (20)~~ five (5) years nor more than ~~life~~ twenty-five (25)

1 years, for which the first five (5) years is not subject to the
2 statutory provisions for suspension, deferral or probation, and by a
3 fine of not less than Fifty Thousand Dollars (\$50,000.00), which
4 shall be in addition to other punishment provided by law and shall
5 not be imposed in lieu of other punishment. ~~Any person convicted of~~
6 ~~a violation of the provisions of this paragraph shall be required to~~
7 ~~serve a minimum of eighty five percent (85%) of the sentence~~
8 ~~received prior to becoming eligible for state correctional earned~~
9 ~~credits towards the completion of the sentence or eligible for~~
10 ~~parole~~ The provisions of Section 13.1 of Title 21 of the Oklahoma
11 Statutes shall apply to sentences imposed under this subsection.

12 4. ~~Any sentence to the custody of the Department of Corrections~~
13 ~~for any violation of paragraph 3 of this subsection shall not be~~
14 ~~subject to statutory provisions for suspended sentences, deferred~~
15 ~~sentences, or probation. A person convicted of a second or~~
16 ~~subsequent violation of the provisions of paragraph 3 of this~~
17 ~~subsection shall be punished as a habitual offender pursuant to~~
18 ~~Section 51.1 of Title 21 of the Oklahoma Statutes and shall be~~
19 ~~required to serve a minimum of eighty five percent (85%) of the~~
20 ~~sentence received prior to becoming eligible for state correctional~~
21 ~~earned credits or eligibility for parole.~~

22 5. Any person who has been convicted of manufacturing or
23 attempting to manufacture methamphetamine pursuant to the provisions
24 of this subsection and who, after such conviction, purchases or

1 attempts to purchase, receive or otherwise acquire any product,
2 mixture, or preparation containing any detectable quantity of base
3 pseudoephedrine or ephedrine shall, upon conviction, be guilty of a
4 felony punishable by imprisonment in the custody of the Department
5 of Corrections for ~~a term in the range of~~ not more than twice the
6 ~~minimum term provided for~~ imprisonment authorized in paragraph 2 of
7 this subsection.

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

14 I. Any person convicted of any offense described in this
15 section shall, in addition to any fine imposed, pay a special
16 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
17 deposited into the Trauma Care Assistance Revolving Fund created in
18 Section ~~1-2522~~ 1-2530.9 of this title.

19 J. For purposes of this section, "public housing project" means
20 any dwelling or accommodations operated as a state or federally
21 subsidized multifamily housing project by any housing authority,
22 nonprofit corporation or municipal developer or housing projects
23 created pursuant to the Oklahoma Housing Authorities Act.

24

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

7 SECTION 4. AMENDATORY 63 O.S. 2011, Section 2-415, as
8 last amended by Section 1, Chapter 258, O.S.L. 2015 (63 O.S. Supp.
9 2016, Section 2-415), is amended to read as follows:

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

- 13 1. Marihuana;
- 14 2. Cocaine or coca leaves;
- 15 3. Heroin;
- 16 4. Amphetamine or methamphetamine;
- 17 5. Lysergic acid diethylamide (LSD);
- 18 6. Phencyclidine (PCP);
- 19 7. Cocaine base, commonly known as "crack" or "rock";
- 20 8. 3,4-Methylenedioxy methamphetamine, commonly known as
21 "ecstasy" or MDMA;
- 22 9. Morphine;
- 23 10. Oxycodone;
- 24 11. Hydrocodone; or

1 12. Benzodiazepine.

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

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

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

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

14 Violation of this section shall be known as "trafficking in
15 illegal drugs". Separate types of controlled substances described
16 in subsection A of this section when possessed at the same time in
17 violation of any provision of this section shall constitute a
18 separate offense for each substance.

19 Any person who commits the conduct described in paragraph 1, 2
20 or 3 of this subsection and represents the quantity of the
21 controlled substance to be an amount described in subsection C of
22 this section shall be punished under the provisions appropriate for
23 the amount of controlled substance represented, regardless of the
24 actual amount.

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

3 1. Marihuana:

4 a. twenty-five (25) pounds or more but less than one
5 hundred (100) pounds of a mixture or substance
6 containing a detectable amount of marihuana shall be
7 trafficking in the third degree punishable by a fine
8 of 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. ~~one thousand (1,000) pounds or more~~ one hundred (100)
12 pounds or more but less than five hundred (500) pounds
13 of a mixture or substance containing a detectable
14 amount of marihuana shall be ~~deemed aggravated~~
15 trafficking in the second degree punishable by a fine
16 of not less than ~~One Hundred Thousand Dollars~~
17 ~~(\$100,000.00)~~ Fifty Thousand Dollars (\$50,000.00) and
18 not more than Five Hundred Thousand Dollars
19 (\$500,000.00), or

20 c. five hundred (500) pounds or more of a mixture or
21 substance containing a detectable amount of marihuana
22 shall be trafficking in the first degree punishable by
23 a 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 or cocaine base:

4 a. twenty-eight (28) grams or more but less than three
5 hundred (300) grams of a mixture or substance
6 containing a detectable amount of cocaine ~~or,~~ coca
7 leaves or cocaine base shall be trafficking in the
8 third degree punishable by a fine of not less than
9 Twenty-five Thousand Dollars (\$25,000.00) and not more
10 than One Hundred Thousand Dollars (\$100,000.00),

11 b. three hundred (300) grams or more but less than four
12 hundred fifty (450) grams of a mixture or substance
13 containing a detectable amount of cocaine ~~or,~~ coca
14 leaves or cocaine base shall be trafficking in the
15 second degree punishable by a fine of not less than
16 One Hundred Thousand Dollars (\$100,000.00) and not
17 more than Five Hundred Thousand Dollars (\$500,000.00),

18 or

19 c. four hundred fifty (450) grams or more of a mixture or
20 substance containing a detectable amount of cocaine
21 ~~or,~~ coca leaves or cocaine base shall be ~~deemed~~
22 ~~aggravated~~ trafficking in the first degree punishable
23 by a fine of not less than One Hundred Thousand

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

3 3. Heroin:

- 4 a. ten (10) grams or more but less than twenty-eight (28)
5 grams of a mixture or substance containing a
6 detectable amount of heroin shall be trafficking in
7 the third degree punishable by a fine of not less than
8 Twenty-five Thousand Dollars (\$25,000.00) and not more
9 than Fifty Thousand Dollars (\$50,000.00), ~~or~~
- 10 b. twenty-eight (28) grams or more but less than two
11 hundred fifty (250) grams of a mixture or substance
12 containing a detectable amount of heroin shall be
13 trafficking in the second degree punishable by a fine
14 of not less than Fifty Thousand Dollars (\$50,000.00)
15 and not more than Five Hundred Thousand Dollars
16 (\$500,000.00), or
- 17 c. two hundred fifty (250) grams or more of a mixture or
18 substance containing a detectable amount of heroin
19 shall be trafficking in the first degree punishable by
20 a 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 4. Amphetamine or methamphetamine:
24

1 a. twenty (20) grams or more but less than two hundred
2 (200) grams of a mixture or substance containing a
3 detectable amount of amphetamine or methamphetamine
4 shall be trafficking in the third degree punishable by
5 a fine of not less than Twenty-five Thousand Dollars
6 (\$25,000.00) and not more than Two Hundred Thousand
7 Dollars (\$200,000.00),

8 b. two hundred (200) grams or more but less than four
9 hundred fifty (450) grams of a mixture or substance
10 containing a detectable amount of amphetamine or
11 methamphetamine shall be trafficking in the second
12 degree punishable by a fine of not less than Fifty
13 Thousand Dollars (\$50,000.00) and not more than Five
14 Hundred Thousand Dollars (\$500,000.00), or

15 c. four hundred fifty (450) grams or more of a mixture or
16 substance containing a detectable amount of
17 amphetamine or methamphetamine shall be ~~deemed~~
18 ~~aggravated~~ trafficking in the first degree punishable
19 by a fine of not less than Fifty Thousand Dollars
20 (\$50,000.00) and not more than Five Hundred Thousand
21 Dollars (\$500,000.00);

22 5. Lysergic acid diethylamide (LSD):

23 a. one (1) gram or more of a mixture or substance
24 containing a detectable amount of lysergic acid

1 diethylamide (LSD) shall be trafficking punishable by
2 a term of imprisonment in the custody of the
3 Department of Corrections not to exceed ten (10) years
4 and by a fine of not less than Fifty Thousand Dollars
5 (\$50,000.00) and not more than One Hundred Thousand
6 Dollars (\$100,000.00), or

7 b. ten (10) grams or more of a mixture or substance
8 containing a detectable amount of lysergic acid

9 diethylamide (LSD) shall be trafficking punishable by
10 a term of imprisonment in the custody of the
11 Department of Corrections not to exceed ten (10) years
12 and by a fine of not less than One Hundred Thousand
13 Dollars (\$100,000.00) and not more than Two Hundred
14 Fifty Thousand Dollars (\$250,000.00);

15 6. Phencyclidine (PCP):

16 a. twenty (20) grams or more of a substance containing a
17 mixture or substance containing a detectable amount of
18 phencyclidine (PCP) shall be trafficking punishable by
19 a term of imprisonment in the custody of the
20 Department of Corrections not to exceed ten (10) years
21 and by a fine of not less than Twenty Thousand Dollars
22 (\$20,000.00) and not more than Fifty Thousand Dollars
23 (\$50,000.00), or

1 b. one hundred fifty (150) grams or more of a substance
2 containing a mixture or substance containing a
3 detectable amount of phencyclidine (PCP) shall be
4 trafficking punishable by a term of imprisonment in
5 the custody of the Department of Corrections not to
6 exceed ten (10) years and by a fine of not less than
7 Fifty Thousand Dollars (\$50,000.00) and not more than
8 Two Hundred Fifty Thousand Dollars (\$250,000.00);

9 7. ~~Cocaine base:~~

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

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

22 8. Methylenedioxy methamphetamine:

23 a. thirty (30) tablets or ten (10) grams of a mixture or
24 substance containing a detectable amount of 3,4-

1 Methylenedioxy methamphetamine shall be trafficking
2 punishable by a term of imprisonment in the custody of
3 the Department of Corrections not to exceed ten (10)
4 years and by a fine of not less than Twenty-five
5 Thousand Dollars (\$25,000.00) and not more than One
6 Hundred Thousand Dollars (\$100,000.00), or

7 b. one hundred (100) tablets or thirty (30) grams of a
8 mixture or substance containing a detectable amount of
9 3,4-Methylenedioxy methamphetamine shall be
10 trafficking punishable by a term of imprisonment in
11 the custody of the Department of Corrections not to
12 exceed ten (10) years and by a fine of not less than
13 One Hundred Thousand Dollars (\$100,000.00) and not
14 more than Five Hundred Thousand Dollars (\$500,000.00);

15 ~~9.~~ 8. Morphine: One thousand (1,000) grams or more of a
16 mixture containing a detectable amount of morphine shall be
17 trafficking punishable by a term of imprisonment in the custody of
18 the Department of Corrections not to exceed ten (10) years and by a
19 fine of not less than One Hundred Thousand Dollars (\$100,000.00) and
20 not more than Five Hundred Thousand Dollars (\$500,000.00);

21 ~~10.~~ 9. Oxycodone: Four hundred (400) grams or more of a
22 mixture containing a detectable amount of oxycodone shall be
23 trafficking punishable by a term of imprisonment in the custody of
24 the Department of Corrections not to exceed ten (10) years and by a

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

3 ~~11.~~ 10. Hydrocodone: Three thousand seven hundred ~~and~~ fifty
4 (3,750) grams or more of a mixture containing a detectable amount of
5 hydrocodone shall be punishable by a term of imprisonment in the
6 custody of the Department of Corrections not to exceed ten (10)
7 years and by a fine of not less than One Hundred Thousand Dollars
8 (\$100,000.00) and not more than Five Hundred Thousand Dollars
9 (\$500,000.00); and

10 ~~12.~~ 11. Benzodiazepine: Five hundred (500) grams or more of a
11 mixture containing a detectable amount of benzodiazepine shall be
12 punishable by a term of imprisonment in the custody of the
13 Department of Corrections not to exceed ten (10) years and by a fine
14 of not less than One Hundred Thousand Dollars (\$100,000.00) and not
15 more than Five Hundred Thousand Dollars (\$500,000.00).

16 D. Any person who violates the provisions of this section with
17 respect to ~~a controlled substance specified in subsection A of this~~
18 ~~section~~ marihuana, cocaine, coca leaves, cocaine base, heroin,
19 amphetamine or methamphetamine in a quantity specified in paragraphs
20 1, 2, 3 and 4 of subsection C of this section shall, in addition to
21 any fines specified by this section, be punishable by a term of
22 imprisonment as follows:

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

1 2. For trafficking in the first degree, a term of imprisonment
2 in the custody of the Department of Corrections of not less than
3 five (5) years nor more than twenty-five (25) years, for which the
4 first five (5) years is not subject to the statutory provisions for
5 suspension, deferral or probation. The provisions of Section 13.1
6 of Title 21 of the Oklahoma Statutes shall apply to sentences
7 imposed under this subsection;

8 2. For trafficking in the second degree, a term of imprisonment
9 in the custody of the Department of Corrections of not less than two
10 (2) years nor more than fifteen (15) years; and

11 3. For trafficking in the third degree, a term of imprisonment
12 in the custody of the Department of Corrections not exceeding ten
13 (10) years.

14 Persons convicted of trafficking in the first degree shall not
15 be eligible for appeal bonds.

16 E. If the person has previously been convicted of one violation
17 or more violations of this section or has been previously convicted
18 of a felony violation any provision of the Uniform Controlled
19 Dangerous Substances Act which constitutes a felony as of the date
20 of sentencing arising from separate and distinct transactions, the
21 person shall be punishable by not less than three times exceeding
22 twice the maximum term of imprisonment provided for in Section 2-401
23 of this title;

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

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

18 ~~The terms of imprisonment specified in this subsection shall not~~
19 ~~be subject to statutory provisions for suspension, deferral or~~
20 ~~probation, or state correctional institution earned credits accruing~~
21 ~~from and after November 1, 1989, except for the achievement earned~~
22 ~~credits authorized by subsection H of Section 138 of Title 57 of the~~
23 ~~Oklahoma Statutes. To qualify for such achievement credits, such~~
24 ~~inmates must also be in compliance with the standards for Class~~

1 ~~level 2 behavior, as defined in subsection D of Section 138 of Title~~
2 ~~57 of the Oklahoma Statutes.~~

3 ~~Persons convicted of violations of this section shall not be~~
4 ~~eligible for appeal bonds.~~

5 E. F. The penalties specified in subsections C and D of this
6 section are subject to the enhancements enumerated in subsections E
7 and F of Section 2-401 of this title.

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

14 SECTION 5. AMENDATORY 63 O.S. 2011, Section 2-509, is
15 amended to read as follows:

16 Section 2-509. A. All species of plants from which controlled
17 dangerous substances in Schedules I and II may be derived are hereby
18 declared inimical to health and welfare of the public, and the
19 intent of the Legislature is to control and eradicate these species
20 of the plants in the State of Oklahoma.

21 B. It shall be unlawful for any person to cultivate or produce,
22 or to knowingly permit the cultivation, production, or wild growing
23 of any species of such plants, on any lands owned or controlled by
24 such person, and it is hereby declared the duty of every such person

1 to destroy all such plants found growing on lands owned or
2 controlled by him.

3 C. 1. Whenever any peace officer of the state shall receive
4 information that any species of any such plants has been found
5 growing on any private lands in the State of Oklahoma, he shall
6 notify the sheriff and county commissioners of the county wherein
7 such plants are found growing. Within five (5) days of receipt of
8 such notice, the county commissioners shall notify the owner or
9 person in possession of such lands that such plants have been found
10 growing on the said lands and that the same must be destroyed or
11 eradicated within fifteen (15) days. When the fifteen (15) days
12 have elapsed, the reporting peace officer shall cause an
13 investigation to be made of the aforesaid lands, and if any such
14 plants be found growing thereon, the commissioners shall cause the
15 same to be destroyed or eradicated by either cutting and burning or
16 by applications of herbicides approved for such purpose by the
17 Department of Agriculture in accordance with Section 2-505 of this
18 title.

19 2. Whenever any such plants are destroyed or eradicated by
20 order of the commissioners as provided herein, the cost of the same
21 shall, if the work or labor be furnished by the commissioners, be
22 taxed against the lands whereon the work was performed, and shall be
23 a lien upon such land in all manner and respects as a lien of
24 judgment, if the owner is charged with a violation of subsection B

1 of this section. If the violation of subsection B of this section
2 is by a person other than the owner of the land, without the
3 knowledge of the owner, the costs shall be paid by the initiating
4 law enforcement agency.

5 D. Knowingly violating the provisions of subsection B or
6 subsection H of this section is hereby declared, as to the owner, or
7 person in possession of such lands, to be a felony and punishable as
8 such by a fine not to exceed Fifty Thousand Dollars (\$50,000.00) and
9 imprisonment in the custody of the Department of Corrections for not
10 ~~less~~ more than ~~two (2)~~ eight (8) years ~~nor more than life~~. The fine
11 provided for in this subsection shall be in addition to other
12 punishments provided by law and shall not be in lieu of other
13 punishment. Any person convicted of a second or subsequent
14 violation of subsection B or subsection H of this section is
15 punishable by a term of imprisonment twice that otherwise authorized
16 and by twice the fine otherwise authorized. Any sentence shall not
17 be subject to statutory provisions for suspended sentences, deferred
18 sentences, or probation, except when the conviction is for a first
19 offense.

20 E. It shall be the duty of any peace officer of the State of
21 Oklahoma who receives information of such plants growing in the
22 State of Oklahoma, to make notice, in writing, to the Oklahoma State
23 Bureau of Narcotics and Dangerous Drugs Control and the future
24 destruction or eradication of the annual growth of such plants shall

1 be supervised by the Oklahoma State Bureau of Narcotics and
2 Dangerous Drugs Control. Any destruction or eradication of the
3 annual growth of such plants supervised by the Bureau shall be by
4 cutting and burning the same or by destruction and eradication
5 through applications of herbicides approved for such purpose by the
6 Department of Agriculture.

7 F. Any application of herbicides authorized by this section
8 shall be made pursuant to the provisions of Section 2-505 of this
9 title.

10 G. In lieu of the eradication procedures provided for in
11 subsections B and C of this section, all species of plants from
12 which controlled dangerous substances in Schedules I and II of the
13 Uniform Controlled Dangerous Substances Act may be derived, may be
14 disposed of pursuant to the provisions of subsection C of Section 2-
15 505 of this title.

16 H. Except as authorized by the Uniform Controlled Dangerous
17 Substances Act, it shall be unlawful for any person to manufacture
18 or attempt to manufacture any controlled dangerous substance by
19 cooking, burning, or extracting and converting or attempting to
20 extract and convert marihuana or marihuana oil into hashish, hashish
21 oil or hashish powder.

22 SECTION 6. This act shall become effective November 1, 2017.

23

24 56-1-5919 GRS 01/19/17