

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1625 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Garry Mize

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 1625

By: Mize

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to controlled dangerous substances;
amending 63 O.S. 2011, Section 2-401, as last amended
by Section 1, Chapter 130, O.S.L. 2018 (63 O.S. Supp.
2020, Section 2-401), which relates to the Uniform
Controlled Dangerous Substances Act; modifying scope
of certain prohibited acts; making certain acts
unlawful; 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
last amended by Section 1, Chapter 130, O.S.L. 2018 (63 O.S. Supp.
2020, Section 2-401), is amended to read as follows:

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

1. To distribute, dispense, ~~transport with intent to distribute~~
~~or dispense,~~ or possess with intent to manufacture, ~~distribute,~~ or
~~dispense,~~ a controlled dangerous substance or to solicit the use of

1 or use the services of a person less than eighteen (18) years of age
2 to cultivate, distribute or dispense a controlled dangerous
3 substance;

4 2. To create, or distribute, ~~transport with intent to~~
5 ~~distribute or dispense, or possess with intent to distribute,~~ a
6 counterfeit controlled dangerous substance; ~~or~~

7 3. To distribute any imitation controlled substance as defined
8 by Section 2-101 of this title, except when authorized by the Food
9 and Drug Administration of the United States Department of Health
10 and Human Services; or

11 4. To transport with intent to distribute or dispense, or
12 possess with intent to distribute or dispense, a controlled
13 dangerous substance or counterfeit controlled dangerous substance.
14 To prove intent to the offenses listed in this paragraph, the
15 evidence must include a quantity of a controlled dangerous substance
16 inconsistent with personal use and evidence of intent to distribute
17 which must be sufficient to rule out any reasonable hypothesis other
18 than intent to distribute. The following circumstances shall be
19 present at the time of transport or possession:

20 a. unlawful possession of a controlled dangerous
21 substance or counterfeit controlled dangerous
22 substance inconsistent with personal use in a quantity
23 of one-fourth (1/4) or more of the quantity listed in
24 subsection C of Section 2-415 of this title, and

1 b. at least three of the following factors:

2 i. the person possesses a wire or
3 electronic communication or notes

4 indicating a drug sale by the person,

5 ii. the controlled dangerous substance or
6 counterfeit controlled dangerous

7 substance is separated and packaged in
8 a manner to facilitate delivery,

9 iii. the person is unlawfully in immediate
10 possession or physical control of a

11 firearm at the time of unlawful

12 possession of the controlled dangerous
13 substance or counterfeit controlled

14 dangerous substance,

15 iv. the person in unlawfully in immediate
16 possession at least two (2) other

17 controlled dangerous substances or

18 counterfeit controlled dangerous

19 substances in an amount inconsistent

20 with personal use, or

21 v. the person possesses cash in excess of
22 Five Hundred Dollars (\$500.00) dollars.

23 B. Any person who violates the provisions of this section with
24 respect to:

1 1. A substance classified in Schedule I or II, except for
2 marijuana, upon conviction, shall be guilty of transporting or
3 possessing with an intent to distribute or dispense a controlled
4 dangerous substance, a felony, and shall be sentenced to a term of
5 imprisonment in the custody of the Department of Corrections for not
6 more than seven (7) years and a fine of not more than One Hundred
7 Thousand Dollars (\$100,000.00), which shall be in addition to other
8 punishment provided by law and shall not be imposed in lieu of other
9 punishment. A second conviction for the violation of provisions of
10 this paragraph is a felony punishable by a term of imprisonment in
11 the custody of the Department of Corrections for not more than
12 fourteen (14) years. A third or subsequent conviction for the
13 violation of the provisions of this paragraph is a felony punishable
14 by a term of imprisonment in the custody of the Department of
15 Corrections for not more than twenty (20) years;

16 2. Any other controlled dangerous substance classified in
17 Schedule III, IV, V or marijuana, upon conviction, shall be guilty
18 of a felony and shall be sentenced to a term of imprisonment in the
19 custody of the Department of Corrections for not more than five (5)
20 years and a fine of not more than Twenty Thousand Dollars
21 (\$20,000.00), which shall be in addition to other punishment
22 provided by law and shall not be imposed in lieu of other
23 punishment. A second conviction for the violation of the provisions
24 of this paragraph is a felony punishable by a term of imprisonment

1 in the custody of the Department of Corrections for not more than
2 ten (10) years. A third or subsequent conviction for the violation
3 of the provisions of this paragraph is a felony punishable by a term
4 of imprisonment in the custody of the Department of Corrections for
5 not more than fifteen (15) years; or

6 3. An imitation controlled substance as defined by Section 2-
7 101 of this title, upon conviction, shall be guilty of a misdemeanor
8 and shall be sentenced to a term of imprisonment in the county jail
9 for a period of not more than one (1) year and a fine of not more
10 than One Thousand Dollars (\$1,000.00). A person convicted of a
11 second violation of the provisions of this paragraph shall be guilty
12 of a felony and shall be sentenced to a term of imprisonment in the
13 custody of the Department of Corrections for not more than two (2)
14 years and a fine of not more than Five Thousand Dollars (\$5,000.00),
15 which shall be in addition to other punishment provided by law and
16 shall not be imposed in lieu of other punishment.

17 C. 1. Except when authorized by the Food and Drug
18 Administration of the United States Department of Health and Human
19 Services, it shall be unlawful for any person to manufacture or
20 distribute a controlled substance or synthetic controlled substance.

21 2. Any person convicted of violating the provisions of
22 paragraph 1 of this subsection with respect to distributing a
23 controlled substance is guilty of a felony and shall be punished by
24 imprisonment in the custody of the Department of Corrections for a

1 term not to exceed ten (10) years and a fine of not more than
2 Twenty-five Thousand Dollars (\$25,000.00), which shall be in
3 addition to other punishment provided by law and shall not be
4 imposed in lieu of other punishment.

5 3. A second conviction for the violation of the provisions of
6 paragraph 1 of this subsection with respect to distributing a
7 controlled substance is a felony punishable by imprisonment in the
8 custody of the Department of Corrections for a term not less than
9 two (2) years nor more than twenty (20) years. A third or
10 subsequent conviction for the violation of the provisions of this
11 paragraph is a felony punishable by imprisonment in the custody of
12 the Department of Corrections for a term not less than ten (10)
13 years nor more than life.

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

22 5. A second conviction for the violation of the provisions of
23 paragraph 1 of this subsection with respect to manufacturing a
24 controlled substance is a felony punishable by imprisonment in the

1 custody of the Department of Corrections for a term not less than
2 two (2) years nor more than twenty (20) years. A third or
3 subsequent conviction for the violation of the provisions of this
4 paragraph is a felony punishable by imprisonment in the custody of
5 the Department of Corrections for a term not less than ten (10)
6 years nor more than life.

7 D. Convictions for violations of the provisions of this section
8 shall be subject to the statutory provisions for suspended or
9 deferred sentences, or probation as provided in Section 991a of
10 Title 22 of the Oklahoma Statutes.

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

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

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

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

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

15 1. For a first offense, a term of imprisonment in the custody
16 of the Department of Corrections, or by the imposition of a fine or
17 by both, not exceeding twice that authorized by the appropriate
18 provision of this section; or

19 2. For a second or subsequent violation of this section, a term
20 of imprisonment in the custody of the Department of Corrections, or
21 by the imposition of a fine or by both, not exceeding thrice that
22 authorized by the appropriate provision of this section.

23 Convictions for second and subsequent violations of the provisions
24

1 of this section shall not be subject to statutory provisions of
2 suspended sentences, deferred sentences or probation.

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

13 2. Any person violating the provisions of this subsection with
14 respect to the unlawful manufacturing or attempting to unlawfully
15 manufacture any controlled dangerous substance, or possessing any
16 substance listed in this subsection or Section 2-322 of this title,
17 upon conviction, is guilty of a felony and shall be punished by
18 imprisonment for not less than seven (7) years nor more than life
19 and by a fine of not less than Fifty Thousand Dollars (\$50,000.00),
20 which shall be in addition to other punishment provided by law and
21 shall not be imposed in lieu of other punishment. The possession of
22 any amount of anhydrous ammonia in an unauthorized container shall
23 be prima facie evidence of intent to use such substance to
24 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,
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- d. one hundred (100) grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP),
- e. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD),
- f. four hundred (400) grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide,
- g. one thousand (1,000) kilograms or more of a mixture or substance containing a detectable amount of marihuana or one thousand (1000) or more marihuana plants regardless of weight, or
- h. fifty (50) grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers,

upon conviction, is guilty of aggravated manufacturing a controlled dangerous substance punishable by imprisonment for not less than twenty (20) years nor more than life and by a fine of not less than

1 Fifty Thousand Dollars (\$50,000.00), which shall be in addition to
2 other punishment provided by law and shall not be imposed in lieu of
3 other punishment. Any person convicted of a violation of the
4 provisions of this paragraph shall be required to serve a minimum of
5 eighty-five percent (85%) of the sentence received prior to becoming
6 eligible for state correctional earned credits towards the
7 completion of the sentence or eligible for parole.

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

18 5. Any person who has been convicted of manufacturing or
19 attempting to manufacture methamphetamine pursuant to the provisions
20 of this subsection and who, after such conviction, purchases or
21 attempts to purchase, receive or otherwise acquire any product,
22 mixture, or preparation containing any detectable quantity of base
23 pseudoephedrine or ephedrine shall, upon conviction, be guilty of a
24 felony punishable by imprisonment in the custody of the Department

1 of Corrections for a term in the range of twice the minimum term
2 provided for in paragraph 2 of this subsection.

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

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

14 J. For purposes of this section, "public housing project" means
15 any dwelling or accommodations operated as a state or federally
16 subsidized multifamily housing project by any housing authority,
17 nonprofit corporation or municipal developer or housing projects
18 created pursuant to the Oklahoma Housing Authorities Act.

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

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

8 SECTION 2. This act shall become effective November 1, 2021.

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10 58-1-7547 GRS 02/18/21
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