

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 HOUSE BILL 3462

 By: Grego

7 AS INTRODUCED

8 An Act relating to public health and safety; amending
9 63 O.S. 2021, Section 2-415, which relates to the
10 Uniform Controlled Dangerous Substances Act;
 decreasing quantity for certain controlled dangerous
 substance; and providing an effective date.

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

14 SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-415, is
15 amended to read as follows:

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

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

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

2 8. 3,4-Methylenedioxy methamphetamine, commonly known as
3 "ecstasy" or MDMA;

4 9. Morphine;

5 10. Oxycodone;

6 11. Hydrocodone;

7 12. Benzodiazepine; or

8 13. Fentanyl and its analogs and derivatives.

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

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

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

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

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

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

19 3. Heroin:

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

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

7 4. Amphetamine or methamphetamine:

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

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

20 c. four hundred fifty (450) grams or more of a mixture or
21 substance containing a detectable amount of
22 amphetamine or methamphetamine shall be deemed
23 aggravated trafficking punishable by a fine of not
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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 trafficking punishable by
7 a term of imprisonment in the custody of the
8 Department of Corrections not to exceed twenty (20)
9 years and by a fine of not less than Fifty Thousand
10 Dollars (\$50,000.00) and not more than One Hundred
11 Thousand Dollars (\$100,000.00), or
12 b. ten (10) grams or more of a mixture or substance
13 containing a detectable amount of lysergic acid
14 diethylamide (LSD) shall be aggravated trafficking
15 punishable by a term of imprisonment in the custody of
16 the Department of Corrections of not less than two (2)
17 years nor more than life and by a fine of not less
18 than One Hundred Thousand Dollars (\$100,000.00) and
19 not more than Two Hundred Fifty Thousand Dollars
20 (\$250,000.00);

21 6. Phencyclidine (PCP):

- 22 a. twenty (20) grams or more of a substance containing a
23 mixture or substance containing a detectable amount of
24 phencyclidine (PCP) shall be trafficking punishable by

1 a term of imprisonment in the custody of the
2 Department of Corrections not to exceed twenty (20)
3 years and by a fine of not less than Twenty Thousand
4 Dollars (\$20,000.00) and not more than Fifty Thousand
5 Dollars (\$50,000.00), or

6 b. one hundred fifty (150) grams or more of a substance
7 containing a mixture or substance containing a
8 detectable amount of phencyclidine (PCP) shall be
9 aggravated trafficking punishable by a term of
10 imprisonment in the custody of the Department of
11 Corrections of not less than two (2) years nor more
12 than life and by a fine of not less than Fifty
13 Thousand Dollars (\$50,000.00) and not more than Two
14 Hundred Fifty Thousand Dollars (\$250,000.00);

15 7. Methylenedioxy methamphetamine:

16 a. thirty (30) tablets or ten (10) grams of a mixture or
17 substance containing a detectable amount of 3,4-
18 Methylenedioxy methamphetamine shall be trafficking
19 punishable by a term of imprisonment in the custody of
20 the Department of Corrections not to exceed twenty
21 (20) years and by a fine of not less than Twenty-five
22 Thousand Dollars (\$25,000.00) and not more than One
23 Hundred Thousand Dollars (\$100,000.00), or
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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 deemed aggravated trafficking punishable by a term of imprisonment in the custody of the Department of Corrections of not less than two (2) years nor more than life 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. Morphine: One thousand (1,000) grams or more of a mixture containing a detectable amount of morphine shall be trafficking punishable by a term of imprisonment in the custody of the Department of Corrections not to exceed twenty (20) years and 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. Oxycodone: Four hundred (400) grams or more of a mixture containing a detectable amount of oxycodone shall be trafficking punishable by a term of imprisonment in the custody of the Department of Corrections not to exceed twenty (20) years and 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. Hydrocodone: Three thousand seven hundred fifty (3,750) grams or more of a mixture containing a detectable amount of hydrocodone shall be trafficking punishable by a term of

1 imprisonment in the custody of the Department of Corrections not to
2 exceed twenty (20) years and by a fine of not less than One Hundred
3 Thousand Dollars (\$100,000.00) and not more than Five Hundred
4 Thousand Dollars (\$500,000.00);

5 11. Benzodiazepine: Five hundred (500) grams or more of a
6 mixture containing a detectable amount of benzodiazepine shall be
7 trafficking punishable by a term of imprisonment not to exceed
8 twenty (20) years and by a fine of not less than One Hundred
9 Thousand Dollars (\$100,000.00) and not more than Five Hundred
10 Thousand Dollars (\$500,000.00); and

11 12. Fentanyl and its analogs and derivatives:

- 12 a. one (1) gram or more of a mixture containing fentanyl
13 or carfentanil, or any fentanyl analogs or derivatives
14 shall be trafficking punishable by a term of
15 imprisonment in the custody of the Department of
16 Corrections not to exceed twenty (20) years and by a
17 fine of not less than One Hundred Thousand Dollars
18 (\$100,000.00) and not more than Two Hundred Fifty
19 Thousand Dollars (\$250,000.00), or
- 20 b. five (5) grams or more of a mixture containing
21 fentanyl or carfentanil, or any fentanyl analogs or
22 derivatives shall be aggravated trafficking punishable
23 by a term of imprisonment in the custody of the
24 Department of Corrections of not less than two (2)

1 years nor more than life and by a fine of not less
2 than Two Hundred Fifty Thousand Dollars (\$250,000.00)
3 and not more than Five Hundred Thousand Dollars
4 (\$500,000.00) .

5 D. Any person who violates the provisions of this section with
6 respect to marijuana, cocaine, coca leaves, cocaine base, heroin,
7 amphetamine or methamphetamine in a quantity specified in paragraphs
8 1, 2, 3 and 4 of subsection C of this section shall, in addition to
9 any fines specified by this section, be punishable by a term of
10 imprisonment as follows:

11 1. For trafficking, a first violation of this section, a term
12 of imprisonment in the custody of the Department of Corrections not
13 to exceed twenty (20) years;

14 2. For trafficking, a second violation of this section, a term
15 of imprisonment in the Department of Corrections of not less than
16 four (4) years nor more than life, for which the person shall serve
17 fifty percent (50%) of the sentence before being eligible for parole
18 consideration;

19 3. For trafficking, a third or subsequent violation of this
20 section, a term of imprisonment in the custody of the Department of
21 Corrections of not less than twenty (20) years nor more than life,
22 of which the person shall serve fifty percent (50%) of the sentence
23 before being eligible for parole consideration.

1 Persons convicted of trafficking shall not be eligible for
2 earned credits or any other type of credits which have the effect of
3 reducing the length of sentence to less than fifty percent (50%) of
4 the sentence imposed; and

5 If the person is convicted of aggravated trafficking, the person
6 shall serve eighty-five percent (85%) of such sentence before being
7 eligible for parole consideration.

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

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

17 SECTION 2. This act shall become effective November 1, 2022.

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19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
20 03/02/2022 - DO PASS.

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