

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 108

By: Bergstrom

COMMITTEE SUBSTITUTE

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 2021, Section 2-402, which relates to prohibited acts and penalties; updating statutory reference; allowing the court to order certain actions; permitting certain punishment; requiring certain persons be guilty of a felony; requiring the court to make certain orders; permitting certain punishment; requiring certain referral; permitting certain violations to be prosecuted in municipal court; allowing municipalities to adopt certain ordinances; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-402, is amended to read as follows:

Section 2-402. A. 1. It shall be unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his or her professional practice, or except as

1 otherwise authorized by ~~this act~~ Section 2-101 et seq. of this
2 title.

3 2. It shall be unlawful for any person to purchase any
4 preparation excepted from the provisions of the Uniform Controlled
5 Dangerous Substances Act pursuant to Section 2-313 of this title in
6 an amount or within a time interval other than that permitted by
7 Section 2-313 of this title.

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

- 17 a. the packaging of the product,
18 b. the name of the product, and
19 c. the distribution and promotion of the product,
20 including verbal representations made at the point of
21 sale.

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

1 Additionally, the court may order the person to complete a substance
2 abuse assessment and evaluation and a diversion program. A person
3 who refuses or fails to complete the program may receive punishment
4 in accordance with this subsection.

5 2. Any person who is convicted, receives a deferred sentence,
6 or receives a suspended sentence for an offense described in this
7 section, excluding an offense for the use of marijuana, who receives
8 a fourth or subsequent conviction within ten (10) years for an
9 offense described in this section shall, upon conviction, be guilty
10 of a felony punishable by a fine not to exceed Five Thousand Dollars
11 (\$5,000.00), by imprisonment in the custody of the Department of
12 Corrections for not less than one (1) year nor more than five (5)
13 years, or by both such fine and imprisonment. Additionally, the
14 court shall order the person to complete a substance abuse
15 assessment and evaluation and may order the person to complete a
16 diversion program. A person who refuses or fails to complete the
17 program may receive punishment in accordance with this subsection.

18 C. Violations under this section shall be referred to the
19 district attorney. If the district attorney declines to prosecute,
20 such violations may be prosecuted in municipal court. A
21 municipality may adopt ordinances to effectuate the provisions of
22 this section.

23 D. Any person convicted of any offense described in this
24 section shall, in addition to any fine imposed, pay a special

1 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
2 deposited into the Trauma Care Assistance Revolving Fund created in
3 Section 1-2530.9 of this title.

4 SECTION 2. This act shall become effective November 1, 2023.

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