

# An Act

ENROLLED HOUSE  
BILL NO. 1567

By: Boatman of the House

and

Weaver of the Senate

An Act relating to public health and safety; amending 63 O.S. 2011, Section 2-415, as last amended by Section 40, Chapter 25, O.S.L. 2019 (63 O.S. Supp. 2020, Section 2-415), which relates to the Uniform Controlled Dangerous Substances Act; deeming certain unlawful act as aggravated trafficking; modifying certain penalties; decreasing certain fine amount; providing separate penalty provision for aggravated trafficking of fentanyl; updating internal citations; and providing an effective date.

SUBJECT: Public health and safety

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-415, as last amended by Section 40, Chapter 25, O.S.L. 2019 (63 O.S. Supp. 2020, Section 2-415), is amended to read as follows:

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

1. ~~Marihuana~~ Marijuana;
2. Cocaine or coca leaves;
3. Heroin;
4. Amphetamine or methamphetamine;

5. Lysergic acid diethylamide (LSD);
6. Phencyclidine (PCP);
7. Cocaine base, commonly known as "crack" or "rock";
8. 3,4-Methylenedioxy methamphetamine, commonly known as "ecstasy" or MDMA;
9. Morphine;
10. Oxycodone;
11. Hydrocodone;
12. Benzodiazepine; or
13. Fentanyl and its analogs and derivatives.

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

1. Knowingly distribute, manufacture, bring into this state or possess a controlled substance specified in subsection A of this section in the quantities specified in subsection C of this section;
2. Possess any controlled substance with the intent to manufacture a controlled substance specified in subsection A of this section in quantities specified in subsection C of this section; or
3. Use or solicit the use of services of a person less than eighteen (18) years of age to distribute or manufacture a controlled dangerous substance specified in subsection A of this section in quantities specified in subsection C of this section.

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

Any person who commits the conduct described in paragraph 1, 2 or 3 of this subsection and represents the quantity of the controlled substance to be an amount described in subsection C of

this section shall be punished under the provisions appropriate for the amount of controlled substance represented, regardless of the actual amount.

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

1. ~~Marihuana~~ Marijuana:

- a. twenty-five (25) pounds or more of a mixture or substance containing a detectable amount of ~~marihuana~~ marijuana shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- b. one thousand (1,000) pounds or more of a mixture or substance containing a detectable amount of ~~marihuana~~ marijuana shall be deemed aggravated trafficking punishable 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);

2. Cocaine, coca leaves or cocaine base:

- a. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of cocaine, coca leaves or cocaine base shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00),
- b. three hundred (300) grams or more of a mixture or substance containing a detectable amount of cocaine, coca leaves or cocaine base shall be punishable 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), or
- c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of cocaine, coca leaves or cocaine base shall be deemed aggravated trafficking punishable 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);

3. Heroin:

- a. ten (10) grams or more of a mixture or substance containing a detectable amount of heroin shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or
- b. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of heroin shall be deemed aggravated trafficking punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

4. Amphetamine or methamphetamine:

- a. twenty (20) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than Two Hundred Thousand Dollars (\$200,000.00),
- b. two hundred (200) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00), or
- c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be deemed aggravated trafficking punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

5. Lysergic acid diethylamide (LSD):

- a. one (1) gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD) 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 Fifty Thousand Dollars (\$50,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or

- b. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD) shall be 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 and by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Two Hundred Fifty Thousand Dollars (\$250,000.00);

6. Phencyclidine (PCP):

- a. twenty (20) grams or more of a substance containing a mixture or substance containing a detectable amount of phencyclidine (PCP) 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 Twenty Thousand Dollars (\$20,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or
- b. one hundred fifty (150) grams or more of a substance containing a mixture or substance containing a detectable amount of phencyclidine (PCP) shall be 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 and by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Two Hundred Fifty Thousand Dollars (\$250,000.00);

7. Methylenedioxy methamphetamine:

- a. thirty (30) tablets or ten (10) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine 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 Twenty-five

Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or

- 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 ~~and~~ fifty (3,750) grams or more of a mixture containing a detectable amount of hydrocodone 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);

11. Benzodiazepine: Five hundred (500) grams or more of a mixture containing a detectable amount of benzodiazepine shall be trafficking punishable by a term of imprisonment 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); and

12. Fentanyl and its analogs and derivatives: ~~One~~

- a. one (1) gram or more of a mixture containing fentanyl or carfentanil, or any fentanyl analogs or derivatives 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)~~ Two Hundred Fifty Thousand Dollars (\$250,000.00), or
- b. five (5) grams or more of a mixture containing fentanyl or carfentanil, or any fentanyl analogs or derivatives shall be 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 and by a fine of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00).

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

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

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

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

Persons convicted of trafficking shall not be eligible for earned credits or any other type of credits which have the effect of

reducing the length of sentence to less than fifty percent (50%) of the sentence imposed; and

~~If the person is convicted of aggravated trafficking as provided in subparagraph b of paragraph 1 of subsection C of this section, subparagraph c of paragraph 2 of subsection C of this section or subparagraph c of paragraph 4 of subsection C of this section, a sentence of imprisonment in the custody of the Department of Corrections as provided in paragraphs 1, 2 and 3 of subsection D of this section, of which,~~ the person shall serve eighty-five percent (85%) of such sentence before being eligible for parole consideration.

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

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

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



Passed the House of Representatives the 27th day of April, 2021.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 12th day of April, 2021.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_