

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1615

By: Worthen

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to public health and safety; amending
10 63 O.S. 2021, Section 2-402, which relates to the
11 Uniform Controlled Dangerous Substances Act;
12 providing separate penalties for unlawfully
13 possessing controlled dangerous substances;
14 authorizing the referral of violations to certain
15 courts; authorizing municipalities to adopt
16 ordinances; and providing an effective date.

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

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

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

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

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

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

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

23 2. Any person who is convicted, receives a deferred sentence,
24 or receives a suspended sentence for an offense provided for in this

1 section, excluding the use of marijuana, and receives a second
2 conviction within ten (10) years for an offense provided for in this
3 section shall, upon conviction, be guilty of a misdemeanor
4 punishable as such terms are provided for in paragraph 1 of this
5 subsection. In addition, the person may be required to:

- 6 a. complete a substance abuse assessment or evaluation
7 and follow the recommendations subsequent thereto, and
- 8 b. complete a drug diversion program for up to one (1)
9 year following the date of conviction as ordered by
10 the court. If the person refuses or fails to complete
11 the drug diversion program, the person may be subject
12 to the terms of punishment provided for in paragraph 1
13 of this subsection.

14 3. Any person who is convicted, receives a deferred sentence,
15 or receives a suspended sentence for an offense provided for in this
16 section, excluding the use of marijuana, and receives a third or
17 subsequent conviction within ten (10) years for an offense provided
18 for in this section shall, upon conviction, be guilty of a
19 misdemeanor punishable as such terms are provided for in paragraph 1
20 of this subsection. In addition, the person may be required to:

- 21 a. complete a substance abuse assessment or evaluation
22 and follow the recommendations subsequent thereto, and
- 23 b. complete a drug diversion program for up to three (3)
24 years following the date of conviction as ordered by

1 the court. If the person refuses or fails to complete
2 the drug diversion program, the person may be subject
3 to the terms of punishment provided for in paragraph 1
4 of this subsection.

5 C. Violations under this section shall be referred to the state
6 or to a municipal court of record for prosecution. If prosecution
7 is refused by the state, the offense may be prosecuted in a
8 municipal court not of record. Municipal courts may adopt
9 ordinances consistent with the provisions of this section.

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

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

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17 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
18 SUBSTANCES, dated 03/02/2023 - DO PASS, As Amended.
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