

1 ENGROSSED HOUSE
2 BILL NO. 1615

By: Worthen of the House

3 and

4 Howard of the Senate

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6
7 An Act relating to public health and safety; amending
8 63 O.S. 2021, Section 2-402, which relates to the
9 Uniform Controlled Dangerous Substances Act;
10 providing separate penalties for unlawfully
11 possessing controlled dangerous substances;
12 authorizing the referral of violations to certain
13 courts; authorizing municipalities to adopt
14 ordinances; and providing an effective date.

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

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

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

24 2. It shall be unlawful for any person to purchase any
preparation excepted from the provisions of the Uniform Controlled

1 Dangerous Substances Act pursuant to Section 2-313 of this title in
2 an amount or within a time interval other than that permitted by
3 Section 2-313 of this title.

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

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

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

21 2. Any person who is convicted, receives a deferred sentence,
22 or receives a suspended sentence for an offense provided for in this
23 section, excluding the use of marijuana, and receives a second
24 conviction within ten (10) years for an offense provided for in this

1 section shall, upon conviction, be guilty of a misdemeanor
2 punishable as such terms are provided for in paragraph 1 of this
3 subsection. In addition, the person may be required to:

4 a. complete a substance abuse assessment or evaluation
5 and follow the recommendations subsequent thereto, and

6 b. complete a drug diversion program for up to one (1)
7 year following the date of conviction as ordered by
8 the court. If the person refuses or fails to complete
9 the drug diversion program, the person may be subject
10 to the terms of punishment provided for in paragraph 1
11 of this subsection.

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

19 a. complete a substance abuse assessment or evaluation
20 and follow the recommendations subsequent thereto, and

21 b. complete a drug diversion program for up to three (3)
22 years following the date of conviction as ordered by
23 the court. If the person refuses or fails to complete
24 the drug diversion program, the person may be subject

1 to the terms of punishment provided for in paragraph 1
2 of this subsection.

3 C. Violations under this section shall be referred to the state
4 or to a municipal court of record for prosecution. The offense may
5 be prosecuted in a municipal court not of record if the court has
6 the discretion to require any of the drug diversion options outlined
7 in subparagraphs a and b of paragraphs 2 and 3 of subsection B of
8 this section as a component of a sentence, deferred sentence, or
9 suspended sentence. Municipal courts may adopt ordinances
10 consistent with the provisions of this section.

11 D. 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.

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

1 Passed the House of Representatives the 21st day of March, 2023.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2023.

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9 Presiding Officer of the Senate