

# An Act

ENROLLED SENATE  
BILL NO. 1280

By: Weaver and Stephens of the  
Senate

and

Manger of the House

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 2021, Section 2-401, which relates to prohibited acts; modifying elements of certain felony offenses; updating statutory language; and providing an effective date.

SUBJECT: Uniform Controlled Dangerous Substances Act

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-401, is amended to read as follows:

Section 2-401. A. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person:

1. To distribute, dispense, transport with intent to distribute or dispense, possess with intent to manufacture, distribute, or dispense, a controlled dangerous substance or to solicit the use of or use the services of a person less than eighteen (18) years of age to cultivate, distribute or dispense a controlled dangerous substance;

2. To create, distribute, transport with intent to distribute or dispense, or possess with intent to distribute, a counterfeit controlled dangerous substance; or

3. To distribute any imitation controlled substance as defined by Section 2-101 of this title, except when authorized by the Food and Drug Administration of the United States Department of Health and Human Services.

B. Any person who violates the provisions of this section with respect to:

1. A substance classified in Schedule I or II, except for marijuana, upon conviction, shall be guilty of transporting or possessing with an intent to distribute a controlled dangerous substance, a felony, and shall be sentenced to a term of imprisonment in the custody of the Department of Corrections for not more than seven (7) years and a fine ~~of~~ not more than One Hundred Thousand Dollars (\$100,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. A second conviction for the violation of provisions of this paragraph is a felony punishable by a term of imprisonment in the custody of the Department of Corrections for not more than fourteen (14) years. A third or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by a term of imprisonment in the custody of the Department of Corrections for not more than twenty (20) years;

2. Any other controlled dangerous substance classified in Schedule III, IV, V or marijuana, upon conviction, shall be guilty of a felony and shall be sentenced to a term of imprisonment in the custody of the Department of Corrections for not more than five (5) years and a fine ~~of~~ not more than Twenty Thousand Dollars (\$20,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. A second conviction for the violation of the provisions of this paragraph is a felony punishable by a term of imprisonment in the custody of the Department of Corrections for not more than ten (10) years. A third or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by a term of imprisonment in the custody of the Department of Corrections for not more than fifteen (15) years; or

3. An imitation controlled substance as defined by Section 2-101 of this title, upon conviction, shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment in the county jail

for a period ~~of~~ not more than one (1) year and a fine ~~of~~ not more than One Thousand Dollars (\$1,000.00). A person convicted of a second violation of the provisions of this paragraph shall be guilty of a felony and shall be sentenced to a term of imprisonment in the custody of the Department of Corrections for not more than two (2) years and a fine ~~of~~ not more than Five Thousand Dollars (\$5,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

C. 1. Except when authorized by the Food and Drug Administration of the United States Department of Health and Human Services, it shall be unlawful for any person to manufacture or distribute a controlled substance or synthetic controlled substance.

2. Any person convicted of violating the provisions of paragraph 1 of this subsection with respect to distributing a controlled substance is guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed ten (10) years and a fine ~~of~~ not more than Twenty-five Thousand Dollars (\$25,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

3. A second conviction for the violation of the provisions of paragraph 1 of this subsection with respect to distributing a controlled substance is a felony punishable by imprisonment in the custody of the Department of Corrections for a term not less than two (2) years nor more than twenty (20) years. A third or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by imprisonment in the custody of the Department of Corrections for a term not less than ten (10) years nor more than life.

4. Any person convicted of violating the provisions of paragraph 1 of this subsection with respect to manufacturing a controlled substance is guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed ten (10) years and a fine ~~of~~ not more than Twenty-five Thousand Dollars (\$25,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

5. A second conviction for the violation of the provisions of paragraph 1 of this subsection with respect to manufacturing a controlled substance is a felony punishable by imprisonment in the custody of the Department of Corrections for a term not less than two (2) years nor more than twenty (20) years. A third or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by imprisonment in the custody of the Department of Corrections for a term not less than ten (10) years nor more than life.

D. Convictions for violations of the provisions of this section shall be subject to the statutory provisions for suspended or deferred sentences, or probation as provided in Section 991a of Title 22 of the Oklahoma Statutes.

E. Any person who is at least eighteen (18) years of age and who violates the provisions of this section by using or soliciting the use of services of a person less than eighteen (18) years of age to distribute, dispense, transport with intent to distribute or dispense or cultivate a controlled dangerous substance or by distributing a controlled dangerous substance to a person under eighteen (18) years of age, or in the presence of a person under twelve (12) years of age, is punishable by:

1. For a first violation of this section, a term of imprisonment in the custody of the Department of Corrections not less than two (2) years nor more than ten (10) years;

2. For a second violation of this section, a term of imprisonment in the custody of the Department of Corrections for not less than four (4) years nor more than twenty (20) years; or

3. For a third or subsequent violation of this section, a term of imprisonment in the custody of the Department of Corrections for not less than ten (10) years nor more than life.

F. Any person who violates any provision of this section by transporting with intent to distribute or dispense, distributing or possessing with intent to distribute a controlled dangerous substance to a person, or violation of subsection G of this section, in or on, or within two thousand (2,000) feet of the real property comprising a public or private elementary or secondary school,

public vocational school, public or private college or university, or other institution of higher education, recreation center or public park, including a state parks and park or recreation areas area, public housing project, or child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes, shall be punished by:

1. For a first offense, a term of imprisonment in the custody of the Department of Corrections, or by the imposition of a fine or by both, not exceeding twice that authorized by the appropriate provision of this section; or

2. For a second or subsequent violation of this section, a term of imprisonment in the custody of the Department of Corrections, or by the imposition of a fine or by both, not exceeding thrice that authorized by the appropriate provision of this section. Convictions for second and subsequent violations of the provisions of this section shall not be subject to statutory provisions of suspended sentences, deferred sentences or probation.

G. 1. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to manufacture or attempt to manufacture any controlled dangerous substance or possess any substance listed in Section 2-322 of this title or any substance containing any detectable amount of pseudoephedrine or its salts, optical isomers or salts of optical isomers, iodine or its salts, optical isomers or salts of optical isomers, hydriodic acid, sodium metal, lithium metal, anhydrous ammonia, phosphorus, or organic solvents with the intent to use that substance to manufacture a controlled dangerous substance.

2. Any person violating the provisions of this subsection with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance, ~~or~~ possessing any substance listed in this subsection or Section 2-322 of this title, or combining fentanyl with any other controlled dangerous substance, upon conviction, is guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for not less than seven (7) years nor more than life and by a fine ~~of~~ not less than Fifty Thousand Dollars (\$50,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. The possession of any amount

of anhydrous ammonia in an unauthorized container shall be prima facie evidence of intent to use such substance to manufacture a controlled dangerous substance.

3. Any person violating the provisions of this subsection with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance in the following amounts:

- a. one (1) kilogram or more of a mixture or substance containing a detectable amount of heroin,
- b. five (5) kilograms or more of a mixture or substance containing a detectable amount of:
  - (1) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed,
  - (2) cocaine, its salts, optical and geometric isomers, and salts of isomers,
  - (3) ecgonine, its derivatives, their salts, isomers, and salts of isomers, or
  - (4) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in divisions (1) through (3) of this subparagraph,
- c. fifty (50) grams or more of a mixture or substance described in division (2) of subparagraph b of this paragraph which contains cocaine base,
- d. one hundred (100) grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP),
- e. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD),

- f. four hundred (400) grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-pheylethy)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide,
- g. one thousand (1,000) kilograms or more of a mixture or substance containing a detectable amount of ~~marihuana~~ marijuana or one thousand (1000) or more ~~marihuana~~ marijuana plants regardless of weight, ~~or~~
- h. fifty (50) grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers, or
- i. ten (10) grams or more of a mixture or substance containing a detectable amount of fentanyl, its analogs, or derivatives,

upon conviction, is guilty of aggravated manufacturing a controlled dangerous substance punishable by imprisonment in the custody of the Department of Corrections for not less than twenty (20) years nor more than life and by a fine ~~or~~ not less than Fifty Thousand Dollars (\$50,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. Any person convicted of a violation of the provisions of this paragraph shall be required to serve a minimum of eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional earned credits towards the completion of the sentence or eligible for parole.

4. Any sentence to the custody of the Department of Corrections for any violation of paragraph 3 of this subsection shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation. A person convicted of a second or subsequent violation of the provisions of paragraph 3 of this subsection shall be punished as a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes and shall be

required to serve a minimum of eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional earned credits or eligibility for parole.

5. Any person who has been convicted of manufacturing or attempting to manufacture methamphetamine pursuant to the provisions of this subsection and who, after such conviction, purchases or attempts to purchase, receive or otherwise acquire any product, mixture, or preparation containing any detectable quantity of base pseudoephedrine or ephedrine shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term in the range of twice the minimum term provided for in paragraph 2 of this subsection.

H. Any person convicted of any offense described in the Uniform Controlled Dangerous Substances Act may, in addition to the fine imposed, be assessed an amount not to exceed ten percent (10%) of the fine imposed. Such assessment shall be paid into a revolving fund for enforcement of controlled dangerous substances created pursuant to Section 2-506 of this title.

I. 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 ~~1-2522~~ 1-2530.9 of this title.

J. For purposes of this section, "public housing project" means any dwelling or accommodations operated as a state or federally subsidized multifamily housing project by any housing authority, nonprofit corporation or municipal developer or housing projects created pursuant to the Oklahoma Housing Authorities Act.

K. When a person is found guilty of a violation of the provisions of this section, the court shall order, in addition to any other penalty, the defendant to pay a one-hundred-dollar assessment to be deposited in the Drug Abuse Education and Treatment Revolving Fund created in Section 2-503.2 of this title, upon collection.

L. Any person convicted of a second or subsequent felony violation of the provisions of this section, except for paragraphs 1

and 2 of subsection B of this section, paragraphs 2, 3, 4 and 5 of subsection C of this section, paragraphs 1, 2, and 3 of subsection E of this section and paragraphs 1 and 2 of subsection F of this section, shall be punished as a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes.

SECTION 2. This act shall become effective November 1, 2024.

Passed the Senate the 15th day of February, 2024.

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

Passed the House of Representatives the 16th day of April, 2024.

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

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: \_\_\_\_\_