

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 398

By: Jech

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5
6 AS INTRODUCED

7 An Act relating to drug offenses; amending 63 O.S.
8 2011, Section 2-402, as last amended by State
9 Question 780, Initiative Petition No. 404, Section 3,
10 and as adopted November 8, 2016, which relates to
11 prohibited acts and penalties; modifying penalties;
12 providing alternative considerations; providing an
13 effective date; and declaring an emergency.

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

15 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-402, as
16 last amended by State Question 780, Initiative Petition No. 404,
17 Section 3, and as adopted November 8, 2016, is amended to read as
18 follows:

19 Section 2-402. A. 1. It shall be unlawful for any person
20 knowingly or intentionally to possess a controlled dangerous
21 substance unless such substance was obtained directly, or pursuant
22 to a valid prescription or order from a practitioner, while acting
23 otherwise authorized by ~~this act~~ Section 2-101 et seq. of this
24 title.

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. 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 C. 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 D. Any person convicted of a third or subsequent offense in
5 this section shall be guilty of a felony punishable by confinement
6 in the custody of the Department of Corrections of not more than
7 five (5) years and by a fine not exceeding Five Thousand Dollars
8 (\$5,000.00). Inclusion in a drug court program, diversion program or
9 inpatient treatment facility may be considered by the Courts in lieu
10 of confinement.

11 SECTION 2. This act shall become effective July 1, 2017.

12 SECTION 3. It being immediately necessary for the preservation
13 of the public peace, health or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

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