

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 814

By: Bergstrom

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6 AS INTRODUCED

7 An Act relating to crime and punishment; amending 63  
8 O.S. 2011, Section 2-402, as last amended by State  
9 Question No. 780, Initiative Petition No. 404,  
10 Section 3, which relates to prohibited acts and  
penalties; making certain offenses a felony;  
prescribing penalties; providing an effective date;  
and declaring an emergency.

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

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

17 Section 2-402. A. 1. It shall be unlawful for any person  
18 knowingly or intentionally to possess a controlled dangerous  
19 substance unless such substance was obtained directly, or pursuant  
20 to a valid prescription or order from a practitioner, while acting  
21 in the course of his or her professional practice, or except as  
22 otherwise authorized by ~~this act~~ Section 2-101 et seq. of this  
23 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. 1. Any person who violates this section with respect to any  
24 Schedule I or II substance, except marijuana or a substance included

1 in subsection D of Section 2-206 of this title and has two or more  
2 prior convictions for any felony violations of the Uniform  
3 Controlled Dangerous Substances Act or misdemeanor possessions of  
4 any Schedule I or II substance, except marijuana or a substance  
5 included in subsection D of Section 2-206 of this title, or a  
6 combination thereof, is guilty of a felony punishable by  
7 imprisonment for not more than three (3) years and by a fine not  
8 exceeding Five Thousand Dollars (\$5,000.00);

9       2. Any person who violates this section with respect to any  
10 Schedule I or II substance, except marijuana or a substance included  
11 in subsection D of Section 2-206 of this title and has five or more  
12 prior convictions for any felony violations of the Uniform  
13 Controlled Dangerous Substances Act or misdemeanor possessions of  
14 any Schedule I or II substance, except marijuana or a substance  
15 included in subsection D of Section 2-206 of this title, or a  
16 combination thereof, is guilty of a felony punishable by  
17 imprisonment for not more than seven (7) years and by a fine not  
18 exceeding Ten Thousand Dollars (\$10,000.00);

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

24       SECTION 2. This act shall become effective July 1, 2021.

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

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