

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1567

By: Boatman

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 63 O.S. 2011, Section 2-415, as last amended by
9 Section 40, Chapter 25, O.S.L. 2019 (63 O.S. Supp.
10 2020, Section 2-415), which relates to the Uniform
11 Controlled Dangerous Substances Act; deeming certain
12 unlawful act as aggravated trafficking; decreasing
13 certain fine amount; providing separate penalty
14 provision for aggravated trafficking of fentanyl;
15 updating internal citations; and providing an
16 effective date.

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

18 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-415, as
19 last amended by Section 40, Chapter 25, O.S.L. 2019 (63 O.S. Supp.
20 2020, Section 2-415), is amended to read as follows:

21 Section 2-415. A. The provisions of the Trafficking in Illegal
22 Drugs Act shall apply to persons convicted of violations with
23 respect to the following substances:

- 24 1. Marihuana;
2. Cocaine or coca leaves;
3. Heroin;
4. Amphetamine or methamphetamine;

- 1 5. Lysergic acid diethylamide (LSD);
- 2 6. Phencyclidine (PCP);
- 3 7. Cocaine base, commonly known as "crack" or "rock";
- 4 8. 3,4-Methylenedioxy methamphetamine, commonly known as
- 5 "ecstasy" or MDMA;
- 6 9. Morphine;
- 7 10. Oxycodone;
- 8 11. Hydrocodone;
- 9 12. Benzodiazepine; or
- 10 13. Fentanyl and its analogs and derivatives.

11 B. Except as otherwise authorized by the Uniform Controlled
12 Dangerous Substances Act, it shall be unlawful for any person to:

- 13 1. Knowingly distribute, manufacture, bring into this state or
- 14 possess a controlled substance specified in subsection A of this
- 15 section in the quantities specified in subsection C of this section;
- 16 2. Possess any controlled substance with the intent to
- 17 manufacture a controlled substance specified in subsection A of this
- 18 section in quantities specified in subsection C of this section; or
- 19 3. Use or solicit the use of services of a person less than
- 20 eighteen (18) years of age to distribute or manufacture a controlled
- 21 dangerous substance specified in subsection A of this section in
- 22 quantities specified in subsection C of this section.

23 Violation of this section shall be known as "trafficking in
24 illegal drugs". Separate types of controlled substances described

1 in subsection A of this section when possessed at the same time in
2 violation of any provision of this section shall constitute a
3 separate offense for each substance.

4 Any person who commits the conduct described in paragraph 1, 2
5 or 3 of this subsection and represents the quantity of the
6 controlled substance to be an amount described in subsection C of
7 this section shall be punished under the provisions appropriate for
8 the amount of controlled substance represented, regardless of the
9 actual amount.

10 C. In the case of a violation of the provisions of subsection B
11 of this section, involving:

12 1. Marihuana:

13 a. twenty-five (25) pounds or more of a mixture or
14 substance containing a detectable amount of marihuana
15 shall be punishable by a fine of not less than Twenty-
16 five Thousand Dollars (\$25,000.00) and not more than
17 One Hundred Thousand Dollars (\$100,000.00), or

18 b. one thousand (1,000) pounds or more of a mixture or
19 substance containing a detectable amount of marihuana
20 shall be deemed aggravated trafficking punishable by a
21 fine of not less than One Hundred Thousand Dollars
22 (\$100,000.00) and not more than Five Hundred Thousand
23 Dollars (\$500,000.00);

24 2. Cocaine, coca leaves or cocaine base:

1 a. twenty-eight (28) grams or more of a mixture or
2 substance containing a detectable amount of cocaine,
3 coca leaves or cocaine base shall be punishable by a
4 fine of not less than Twenty-five Thousand Dollars
5 (\$25,000.00) and not more than One Hundred Thousand
6 Dollars (\$100,000.00),

7 b. three hundred (300) grams or more of a mixture or
8 substance containing a detectable amount of cocaine,
9 coca leaves or cocaine base shall be punishable by a
10 fine of not less than One Hundred Thousand Dollars
11 (\$100,000.00) and not more than Five Hundred Thousand
12 Dollars (\$500,000.00), or

13 c. four hundred fifty (450) grams or more of a mixture or
14 substance containing a detectable amount of cocaine,
15 coca leaves or cocaine base shall be deemed aggravated
16 trafficking punishable by a fine of not less than One
17 Hundred Thousand Dollars (\$100,000.00) and not more
18 than Five Hundred Thousand Dollars (\$500,000.00);

19 3. Heroin:

20 a. ten (10) grams or more of a mixture or substance
21 containing a detectable amount of heroin shall be
22 punishable by a fine of not less than Twenty-five
23 Thousand Dollars (\$25,000.00) and not more than Fifty
24 Thousand Dollars (\$50,000.00), or

1 b. twenty-eight (28) grams or more of a mixture or
2 substance containing a detectable amount of heroin
3 shall be deemed aggravated trafficking punishable by a
4 fine of not less than Fifty Thousand Dollars
5 (\$50,000.00) and not more than Five Hundred Thousand
6 Dollars (\$500,000.00);

7 4. Amphetamine or methamphetamine:

8 a. twenty (20) grams or more of a mixture or substance
9 containing a detectable amount of amphetamine or
10 methamphetamine shall be punishable by a fine of not
11 less than Twenty-five Thousand Dollars (\$25,000.00)
12 and not more than Two Hundred Thousand Dollars
13 (\$200,000.00),

14 b. two hundred (200) grams or more of a mixture or
15 substance containing a detectable amount of
16 amphetamine or methamphetamine shall be punishable by
17 a fine of not less than Fifty Thousand Dollars
18 (\$50,000.00) and not more than Five Hundred Thousand
19 Dollars (\$500,000.00), or

20 c. four hundred fifty (450) grams or more of a mixture or
21 substance containing a detectable amount of
22 amphetamine or methamphetamine shall be deemed
23 aggravated trafficking punishable by a fine of not
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1 less than Fifty Thousand Dollars (\$50,000.00) and not
2 more than Five Hundred Thousand Dollars (\$500,000.00);

3 5. Lysergic acid diethylamide (LSD):

4 a. one (1) gram or more of a mixture or substance
5 containing a detectable amount of lysergic acid
6 diethylamide (LSD) shall be punishable by a fine of
7 not less than Fifty Thousand Dollars (\$50,000.00) and
8 not more than One Hundred Thousand Dollars
9 (\$100,000.00), or

10 b. ten (10) grams or more of a mixture or substance
11 containing a detectable amount of lysergic acid
12 diethylamide (LSD) shall be punishable by a fine of
13 not less than One Hundred Thousand Dollars
14 (\$100,000.00) and not more than Two Hundred Fifty
15 Thousand Dollars (\$250,000.00);

16 6. Phencyclidine (PCP):

17 a. twenty (20) grams or more of a substance containing a
18 mixture or substance containing a detectable amount of
19 phencyclidine (PCP) shall be punishable by a fine of
20 not less than Twenty Thousand Dollars (\$20,000.00) and
21 not more than Fifty Thousand Dollars (\$50,000.00), or

22 b. one hundred fifty (150) grams or more of a substance
23 containing a mixture or substance containing a
24 detectable amount of phencyclidine (PCP) shall be

1 punishable by a fine of not less than Fifty Thousand
2 Dollars (\$50,000.00) and not more than Two Hundred
3 Fifty Thousand Dollars (\$250,000.00);

4 7. Methylenedioxy methamphetamine:

5 a. thirty (30) tablets or ten (10) grams of a mixture or
6 substance containing a detectable amount of 3,4-
7 Methylenedioxy methamphetamine shall be trafficking
8 punishable by a term of imprisonment in the custody of
9 the Department of Corrections not to exceed twenty
10 (20) years and by a fine of not less than Twenty-five
11 Thousand Dollars (\$25,000.00) and not more than One
12 Hundred Thousand Dollars (\$100,000.00), or

13 b. one hundred (100) tablets or thirty (30) grams of a
14 mixture or substance containing a detectable amount of
15 3,4-Methylenedioxy methamphetamine shall be deemed
16 aggravated trafficking punishable by a term of
17 imprisonment in the custody of the Department of
18 Corrections of not less than two (2) years nor more
19 than life by a fine of not less than One Hundred
20 Thousand Dollars (\$100,000.00) and not more than Five
21 Hundred Thousand Dollars (\$500,000.00);

22 8. Morphine: One thousand (1,000) grams or more of a mixture
23 containing a detectable amount of morphine shall be trafficking
24 punishable by a term of imprisonment in the custody of the

1 Department of Corrections not to exceed twenty (20) years and by a
2 fine of not less than One Hundred Thousand Dollars (\$100,000.00) and
3 not more than Five Hundred Thousand Dollars (\$500,000.00);

4 9. Oxycodone: Four hundred (400) grams or more of a mixture
5 containing a detectable amount of oxycodone shall be trafficking
6 punishable by a term of imprisonment in the custody of the
7 Department of Corrections not to exceed twenty (20) years and by a
8 fine of not less than One Hundred Thousand Dollars (\$100,000.00) and
9 not more than Five Hundred Thousand Dollars (\$500,000.00);

10 10. Hydrocodone: Three thousand seven hundred and fifty
11 (3,750) grams or more of a mixture containing a detectable amount of
12 hydrocodone shall be trafficking punishable by a term of
13 imprisonment in the custody of the Department of Corrections not to
14 exceed twenty (20) years and by a fine of not less than One Hundred
15 Thousand Dollars (\$100,000.00) and not more than Five Hundred
16 Thousand Dollars (\$500,000.00);

17 11. Benzodiazepine: Five hundred (500) grams or more of a
18 mixture containing a detectable amount of benzodiazepine shall be
19 trafficking punishable by a term of imprisonment not to exceed
20 twenty (20) years and by a fine of not less than One Hundred
21 Thousand Dollars (\$100,000.00) and not more than Five Hundred
22 Thousand Dollars (\$500,000.00); and

23 12. Fentanyl and its analogs and derivatives: ~~One~~

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- 1 a. one (1) gram or more of a mixture containing fentanyl
2 or carfentanil, or any fentanyl analogs or derivatives
3 shall be punishable by a fine of not less than One
4 Hundred Thousand Dollars (\$100,000.00) and not more
5 than ~~Five Hundred Thousand Dollars (\$500,000.00)~~ Two
6 Hundred Fifty Thousand Dollars (\$250,000.00), or
7 b. five (5) grams or more of a mixture containing
8 fentanyl or carfentanil, or any fentanyl analogs or
9 derivatives shall be deemed aggravated trafficking
10 punishable by a fine of not less than Two Hundred
11 Fifty Thousand Dollars (\$250,000.00) and not more than
12 Five Hundred Thousand Dollars (\$500,000.00).

13 D. Any person who violates the provisions of this section with
14 respect to a marihuana, cocaine, coca leaves, cocaine base, heroin,
15 amphetamine or methamphetamine, or fentanyl and its analogs and
16 derivatives, in a quantity specified in paragraphs 1, 2, 3 ~~and~~, 4
17 and 12 of subsection C of this section shall, in addition to any
18 fines specified by this section, be punishable by a term of
19 imprisonment as follows:

20 1. For trafficking, a first violation of this section, a term
21 of imprisonment in the custody of the Department of Corrections not
22 to exceed twenty (20) years;

23 2. For trafficking, a second violation of this section, a term
24 of imprisonment in the Department of Corrections of not less than

1 four (4) years nor more than life, for which the person shall serve
2 fifty percent (50%) of the sentence before being eligible for parole
3 consideration;

4 3. For trafficking, a third or subsequent violation of this
5 section, a term of imprisonment in the custody of the Department of
6 Corrections of not less than twenty (20) years nor more than life,
7 of which the person shall serve fifty percent (50%) of the sentence
8 before being eligible for parole consideration.

9 Persons convicted of trafficking shall not be eligible for
10 earned credits or any other type of credits which have the effect of
11 reducing the length of sentence to less than fifty percent (50%) of
12 the sentence imposed; and

13 If the person is convicted of aggravated trafficking as provided
14 in subparagraph b of paragraph 1 of subsection C of this section,
15 subparagraph c of paragraph 2 of subsection C of this section ~~or,~~
16 subparagraph b of paragraph 3 of subsection C of this section,
17 subparagraph c of paragraph 4 of subsection C of this section or
18 subparagraph b of paragraph 12 of subsection C of this section, a
19 sentence of imprisonment in the custody of the Department of
20 Corrections as provided in paragraphs 1, 2 and 3 of subsection D of
21 this section, of which the person shall serve eighty-five percent
22 (85%) of such sentence before being eligible for parole
23 consideration.

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1 E. The penalties specified in subsections C and D of this
2 section are subject to the enhancements enumerated in subsections E
3 and F of Section 2-401 of this title.

4 F. Any person convicted of any offense described in this
5 section shall, in addition to any fine imposed, pay a special
6 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
7 deposited into the Trauma Care Assistance Revolving Fund created in
8 Section 1-2530.9 of this title and the assessment pursuant to
9 Section 2-503.2 of this title.

10 SECTION 2. This act shall become effective November 1, 2021.

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12 58-1-6300 GRS 12/14/20
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