

1 **SENATE FLOOR VERSION**

2 March 1, 2023

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 108

By: Bergstrom

6 [Uniform Controlled Dangerous Substances Act - acts
7 and penalties - actions - punishment - orders -
8 referral - violations - ordinances - effective date]

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

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

12 Section 2-402. A. 1. It shall be unlawful for any person
13 knowingly or intentionally to possess a controlled dangerous
14 substance unless such substance was obtained directly, or pursuant
15 to a valid prescription or order from a practitioner, while acting
16 in the course of his or her professional practice, or except as
17 otherwise authorized by ~~this act~~ Section 2-101 et seq. of this
18 title.

19 2. It shall be unlawful for any person to purchase any
20 preparation excepted from the provisions of the Uniform Controlled
21 Dangerous Substances Act pursuant to Section 2-313 of this title in
22 an amount or within a time interval other than that permitted by
23 Section 2-313 of this title.

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

- 10 a. the packaging of the product,
- 11 b. the name of the product, and
- 12 c. the distribution and promotion of the product,
13 including verbal representations made at the point of
14 sale.

15 B. 1. Any person who violates this section is guilty of a
16 misdemeanor punishable by confinement for not more than one (1) year
17 and by a fine not exceeding One Thousand Dollars (\$1,000.00).
18 Additionally, the court may order the person to complete a substance
19 abuse assessment and evaluation and a diversion program. A person
20 who refuses or fails to complete the assessment or program may
21 receive punishment in accordance with this subsection.

22 2. Any person who is convicted for an offense described in this
23 section, excluding an offense for the use of marijuana, who receives
24 a fourth or subsequent conviction within ten (10) years for an

1 offense described in this section shall, upon conviction, be guilty
2 of a felony punishable by a fine not to exceed Five Thousand Dollars
3 (\$5,000.00), by imprisonment in the custody of the Department of
4 Corrections for not less than one (1) year nor more than five (5)
5 years, or by both such fine and imprisonment. Additionally, the
6 court shall order the person to complete a substance abuse
7 assessment and evaluation and may order the person to complete a
8 diversion program. A person who refuses or fails to complete the
9 assessment or program may receive punishment in accordance with this
10 subsection.

11 C. Violations under this section shall be referred to the
12 district attorney. If the district attorney declines to prosecute,
13 such violations may be prosecuted in municipal court. A
14 municipality may adopt ordinances to effectuate the provisions of
15 this section.

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

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

22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
23 March 1, 2023 - DO PASS AS AMENDED BY CS
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