

1 **SENATE FLOOR VERSION**

2 February 8, 2024

3 SENATE BILL NO. 1280

By: Weaver and Stephens

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

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

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

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

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

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

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

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

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

1 2. Any other controlled dangerous substance classified in
2 Schedule III, IV, V or marijuana, upon conviction, shall be guilty
3 of a felony and shall be sentenced to a term of imprisonment in the
4 custody of the Department of Corrections for not more than five (5)
5 years and a fine ~~of~~ not more than Twenty Thousand Dollars
6 (\$20,000.00), which shall be in addition to other punishment
7 provided by law and shall not be imposed in lieu of other
8 punishment. A second conviction for the violation of the provisions
9 of this paragraph is a felony punishable by a term of imprisonment
10 in the custody of the Department of Corrections for not more than
11 ten (10) years. A third or subsequent conviction for the violation
12 of the provisions of this paragraph is a felony punishable by a term
13 of imprisonment in the custody of the Department of Corrections for
14 not more than fifteen (15) years; or

15 3. An imitation controlled substance as defined by Section 2-
16 101 of this title, upon conviction, shall be guilty of a misdemeanor
17 and shall be sentenced to a term of imprisonment in the county jail
18 for a period ~~of~~ not more than one (1) year and a fine ~~of~~ not more
19 than One Thousand Dollars (\$1,000.00). A person convicted of a
20 second violation of the provisions of this paragraph shall be guilty
21 of a felony and shall be sentenced to a term of imprisonment in the
22 custody of the Department of Corrections for not more than two (2)
23 years and a fine ~~of~~ not more than Five Thousand Dollars (\$5,000.00),
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1 which shall be in addition to other punishment provided by law and
2 shall not be imposed in lieu of other punishment.

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

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

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

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

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

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

22 E. Any person who is at least eighteen (18) years of age and
23 who violates the provisions of this section by using or soliciting
24 the use of services of a person less than eighteen (18) years of age

1 to distribute, dispense, transport with intent to distribute or
2 dispense or cultivate a controlled dangerous substance or by
3 distributing a controlled dangerous substance to a person under
4 eighteen (18) years of age, or in the presence of a person under
5 twelve (12) years of age, is punishable by:

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

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

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

15 F. Any person who violates any provision of this section by
16 transporting with intent to distribute or dispense, distributing or
17 possessing with intent to distribute a controlled dangerous
18 substance to a person, or violation of subsection G of this section,
19 in or on, or within two thousand (2,000) feet of the real property
20 comprising a public or private elementary or secondary school,
21 public vocational school, public or private college or university,
22 or other institution of higher education, recreation center or
23 public park, including a state parks~~and park~~ or recreation areas
24 area, public housing project, or child care facility as defined by

1 Section 402 of Title 10 of the Oklahoma Statutes, shall be punished
2 by:

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

7 2. For a second or subsequent violation of this section, a term
8 of imprisonment in the custody of the Department of Corrections, or
9 by the imposition of a fine or by both, not exceeding thrice that
10 authorized by the appropriate provision of this section.

11 Convictions for second and subsequent violations of the provisions
12 of this section shall not be subject to statutory provisions of
13 suspended sentences, deferred sentences or probation.

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

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1 2. Any person violating the provisions of this subsection with
2 respect to the unlawful manufacturing or attempting to unlawfully
3 manufacture any controlled dangerous substance, ~~or~~ possessing any
4 substance listed in this subsection or Section 2-322 of this title,
5 or combining fentanyl with any other controlled dangerous substance,
6 upon conviction, is guilty of a felony and shall be punished by
7 imprisonment in the custody of the Department of Corrections for not
8 less than seven (7) years nor more than life and by a fine ~~of~~ not
9 less than Fifty Thousand Dollars (\$50,000.00), which shall be in
10 addition to other punishment provided by law and shall not be
11 imposed in lieu of other punishment. The possession of any amount
12 of anhydrous ammonia in an unauthorized container shall be prima
13 facie evidence of intent to use such substance to manufacture a
14 controlled dangerous substance.

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

19 a. one (1) kilogram or more of a mixture or substance
20 containing a detectable amount of heroin,

21 b. five (5) kilograms or more of a mixture or substance
22 containing a detectable amount of:

23 (1) coca leaves, except coca leaves and extracts of
24 coca leaves from which cocaine, ecgonine, and

1 derivatives of ecgonine or their salts have been
2 removed,

3 (2) cocaine, its salts, optical and geometric
4 isomers, and salts of isomers,

5 (3) ecgonine, its derivatives, their salts, isomers,
6 and salts of isomers, or

7 (4) any compound, mixture, or preparation which
8 contains any quantity of any of the substances
9 referred to in divisions (1) through (3) of this
10 subparagraph,

11 c. fifty (50) grams or more of a mixture or substance
12 described in division (2) of subparagraph b of this
13 paragraph which contains cocaine base,

14 d. one hundred (100) grams or more of phencyclidine (PCP)
15 or 1 kilogram or more of a mixture or substance
16 containing a detectable amount of phencyclidine (PCP),

17 e. ten (10) grams or more of a mixture or substance
18 containing a detectable amount of lysergic acid
19 diethylamide (LSD),

20 f. four hundred (400) grams or more of a mixture or
21 substance containing a detectable amount of N-phenyl-
22 N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100
23 grams or more of a mixture or substance containing a
24

1 detectable amount of any analogue of N-phenyl-N-[1-(2-
2 phenylethyl)-4-piperidinyl] propanamide,

3 g. one thousand (1,000) kilograms or more of a mixture or
4 substance containing a detectable amount of ~~marihuana~~
5 marijuana or one thousand (1000) or more ~~marihuana~~
6 marijuana plants regardless of weight, ~~or~~

7 h. fifty (50) grams or more of methamphetamine, its
8 salts, isomers, and salts of its isomers or 500 grams
9 or more of a mixture or substance containing a
10 detectable amount of methamphetamine, its salts,
11 isomers, or salts of its isomers, or

12 i. ten (10) grams or more of a mixture or substance
13 containing a detectable amount of fentanyl, its
14 analogs, or derivatives,

15 upon conviction, is guilty of aggravated manufacturing a controlled
16 dangerous substance punishable by imprisonment in the custody of the
17 Department of Corrections for not less than twenty (20) years nor
18 more than life and by a fine ~~of~~ not less than Fifty Thousand Dollars
19 (\$50,000.00), which shall be in addition to other punishment
20 provided by law and shall not be imposed in lieu of other
21 punishment. Any person convicted of a violation of the provisions
22 of this paragraph shall be required to serve a minimum of eighty-
23 five percent (85%) of the sentence received prior to becoming
24

1 eligible for state correctional earned credits towards the
2 completion of the sentence or eligible for parole.

3 4. Any sentence to the custody of the Department of Corrections
4 for any violation of paragraph 3 of this subsection shall not be
5 subject to statutory provisions for suspended sentences, deferred
6 sentences, or probation. A person convicted of a second or
7 subsequent violation of the provisions of paragraph 3 of this
8 subsection shall be punished as a habitual offender pursuant to
9 Section 51.1 of Title 21 of the Oklahoma Statutes and shall be
10 required to serve a minimum of eighty-five percent (85%) of the
11 sentence received prior to becoming eligible for state correctional
12 earned credits or eligibility for parole.

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

22 H. Any person convicted of any offense described in the Uniform
23 Controlled Dangerous Substances Act may, in addition to the fine
24 imposed, be assessed an amount not to exceed ten percent (10%) of

1 the fine imposed. Such assessment shall be paid into a revolving
2 fund for enforcement of controlled dangerous substances created
3 pursuant to Section 2-506 of this title.

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

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

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

20 L. Any person convicted of a second or subsequent felony
21 violation of the provisions of this section, except for paragraphs 1
22 and 2 of subsection B of this section, paragraphs 2, 3, 4 and 5 of
23 subsection C of this section, paragraphs 1, 2, and 3 of subsection E
24 of this section and paragraphs 1 and 2 of subsection F of this

1 section, shall be punished as a habitual offender pursuant to
2 Section 51.1 of Title 21 of the Oklahoma Statutes.

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

4 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
5 February 8, 2024 - DO PASS
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