

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 108

By: Bergstrom

AS INTRODUCED

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 2021, Section 2-402, which relates to prohibited acts and penalties; making certain offenses a felony; prescribing penalties; requiring certain sentencing options for certain offenders; and providing an effective date.

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

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

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

2. It shall be unlawful for any person to purchase any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act pursuant to Section 2-313 of this title in

1 an amount or within a time interval other than that permitted by
2 Section 2-313 of this title.

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

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

17 B. Any person who violates this section is guilty of a
18 misdemeanor punishable by confinement for not more than one (1) year
19 and by a fine not exceeding One Thousand Dollars (\$1,000.00).

20 C. 1. Any person who violates this section with respect to any
21 Schedule I or Schedule II substance as defined by Sections 2-204 and
22 2-206 of this title, except marijuana or a substance included in
23 subsection D of Section 2-206 of this title, and has two or more
24 prior convictions for:

- 1 a. a felony violation of the Uniform Controlled Dangerous
2 Substances Act,
3 b. misdemeanor possession of any Schedule I or II
4 substance, except marijuana or a substance included in
5 subsection D of Section 2-206 of this title, or
6 c. a combination of violations listed in subparagraphs a
7 or b of this paragraph;

8 is guilty of a felony punishable by imprisonment for not more than
9 three (3) years and by a fine not exceeding Five Thousand Dollars
10 (\$5,000.00);

11 2. Any person who violates this section with respect to any
12 Schedule I or II substance as defined by Sections 2-204 and 2-206 of
13 this title, except marijuana or a substance included in subsection D
14 of Section 2-206 of this title and has five or more prior
15 convictions for:

- 16 a. a felony violation of the Uniform Controlled Dangerous
17 Substances Act,
18 b. misdemeanor possession of any Schedule I or II
19 substance, except marijuana or a substance included in
20 subsection D of Section 2-206 of this title, or
21 c. a combination of violations listed in subparagraphs a
22 or b of this paragraph;

1 is guilty of a felony punishable by imprisonment for not more than
2 seven (7) years and by a fine not exceeding Ten Thousand Dollars
3 (\$10,000.00);

4 D. 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.

9 E. An offender who is charged with a violation under this
10 section and who has no prior felony convictions shall be allowed to
11 enroll in a drug addiction rehabilitation program or appear before a
12 drug court for sentencing, at the discretion of the district
13 attorney. Upon successful completion of the drug addiction
14 rehabilitation program or drug court program, the criminal case
15 against the offender shall be dismissed or the sentence deferred for
16 a period not to exceed two (2) years.

17 Any drug addiction rehabilitation program must be approved by
18 the district attorney and the offender, with the offender bearing
19 all financial responsibility for the program.

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

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