

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2586

By: Humphrey

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5  
6 AS INTRODUCED

7 An Act relating to public health and safety; amending  
8 63 O.S. Section 2-402, which relates to the Uniform  
9 Controlled Dangerous Substances Act; making certain  
10 acts unlawful; providing penalty; amending 63 O.S.  
11 2021, Section 2-415, which relates to the Trafficking  
12 in Illegal Drugs Act; increasing penalties for  
13 trafficking fentanyl; and providing an effective  
14 date.

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

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

18 Section 2-402. A. 1. ~~It~~ Except as provided for in subsection  
19 C of this section, it shall be unlawful for any person knowingly or  
20 intentionally to possess a controlled dangerous substance unless  
21 such substance was obtained directly, or pursuant to a valid  
22 prescription or order from a practitioner, while acting in the  
23 course of his or her professional practice, or except as otherwise  
24 authorized by this act.

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 the provisions of subsection A of  
21 this section ~~is~~ shall, upon conviction, be guilty of a misdemeanor  
22 punishable by confinement in the county jail for a term of not more  
23 than one (1) year and by a fine not exceeding One Thousand Dollars  
24 (\$1,000.00).

1 C. It shall be unlawful for any person knowingly or  
2 intentionally to possess fentanyl and its analogs and derivatives  
3 unless such substance was obtained directly, or pursuant to a valid  
4 prescription or order from a practitioner, while acting in the  
5 course of his or her professional practice, or except as otherwise  
6 authorized by the Uniform Controlled Dangerous Substances Act. Any  
7 person who violates the provision of this subsection shall, upon  
8 conviction, be guilty of a felony punishable by imprisonment in the  
9 custody of the Department of Corrections for a term of not more than  
10 two (2) years, or a fine not exceeding One Thousand Dollars  
11 (\$1,000.00), or by both such fine and imprisonment.

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

17 SECTION 2. AMENDATORY 63 O.S. 2021, Section 2-415, is  
18 amended to read as follows:

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

- 22 1. Marijuana;
- 23 2. Cocaine or coca leaves;
- 24 3. Heroin;

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

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

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

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1 Violation of this section shall be known as "trafficking in  
2 illegal drugs". Separate types of controlled substances described  
3 in subsection A of this section when possessed at the same time in  
4 violation of any provision of this section shall constitute a  
5 separate offense for each substance.

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

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

14 1. Marijuana:

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

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

3 2. Cocaine, coca leaves or cocaine base:

4 a. twenty-eight (28) grams or more of a mixture or  
5 substance containing a detectable amount of cocaine,  
6 coca leaves or cocaine base shall be punishable by a  
7 fine of not less than Twenty-five Thousand Dollars  
8 (\$25,000.00) and not more than One Hundred Thousand  
9 Dollars (\$100,000.00),

10 b. three hundred (300) grams or more of a mixture or  
11 substance containing a detectable amount of cocaine,  
12 coca leaves or cocaine base shall be punishable by a  
13 fine of not less than One Hundred Thousand Dollars  
14 (\$100,000.00) and not more than Five Hundred Thousand  
15 Dollars (\$500,000.00), or

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

22 3. Heroin:

23 a. ten (10) grams or more of a mixture or substance  
24 containing a detectable amount of heroin shall be

1 punishable by a fine of not less than Twenty-five  
2 Thousand Dollars (\$25,000.00) and not more than Fifty  
3 Thousand Dollars (\$50,000.00), or

4 b. twenty-eight (28) grams or more of a mixture or  
5 substance containing a detectable amount of heroin  
6 shall be deemed aggravated trafficking punishable by a  
7 fine of not less than Fifty Thousand Dollars  
8 (\$50,000.00) and not more than Five Hundred Thousand  
9 Dollars (\$500,000.00);

10 4. Amphetamine or methamphetamine:

11 a. twenty (20) grams or more of a mixture or substance  
12 containing a detectable amount of amphetamine or  
13 methamphetamine shall be punishable by a fine of not  
14 less than Twenty-five Thousand Dollars (\$25,000.00)  
15 and not more than Two Hundred Thousand Dollars  
16 (\$200,000.00),

17 b. two hundred (200) grams or more of a mixture or  
18 substance containing a detectable amount of  
19 amphetamine or methamphetamine shall be punishable by  
20 a fine of not less than Fifty Thousand Dollars  
21 (\$50,000.00) and not more than Five Hundred Thousand  
22 Dollars (\$500,000.00), or

23 c. four hundred fifty (450) grams or more of a mixture or  
24 substance containing a detectable amount of

1           amphetamine or methamphetamine shall be deemed  
2           aggravated trafficking punishable by a fine of not  
3           less than Fifty Thousand Dollars (\$50,000.00) and not  
4           more than Five Hundred Thousand Dollars (\$500,000.00);

5       5. Lysergic acid diethylamide (LSD):

6           a.    one (1) gram or more of a mixture or substance  
7           containing a detectable amount of lysergic acid  
8           diethylamide (LSD) shall be trafficking punishable by  
9           a term of imprisonment in the custody of the  
10          Department of Corrections not to exceed twenty (20)  
11          years and by a fine of not less than Fifty Thousand  
12          Dollars (\$50,000.00) and not more than One Hundred  
13          Thousand Dollars (\$100,000.00), or

14          b.    ten (10) grams or more of a mixture or substance  
15          containing a detectable amount of lysergic acid  
16          diethylamide (LSD) shall be aggravated trafficking  
17          punishable by a term of imprisonment in the custody of  
18          the Department of Corrections of not less than two (2)  
19          years nor more than life and by a fine of not less  
20          than One Hundred Thousand Dollars (\$100,000.00) and  
21          not more than Two Hundred Fifty Thousand Dollars  
22          (\$250,000.00);

23       6. Phencyclidine (PCP):

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1 a. twenty (20) grams or more of a substance containing a  
2 mixture or substance containing a detectable amount of  
3 phencyclidine (PCP) shall be trafficking punishable by  
4 a term of imprisonment in the custody of the  
5 Department of Corrections not to exceed twenty (20)  
6 years and by a fine of not less than Twenty Thousand  
7 Dollars (\$20,000.00) and not more than Fifty Thousand  
8 Dollars (\$50,000.00), or

9 b. one hundred fifty (150) grams or more of a substance  
10 containing a mixture or substance containing a  
11 detectable amount of phencyclidine (PCP) shall be  
12 aggravated trafficking punishable by a term of  
13 imprisonment in the custody of the Department of  
14 Corrections of not less than two (2) years nor more  
15 than life and by a fine of not less than Fifty  
16 Thousand Dollars (\$50,000.00) and not more than Two  
17 Hundred Fifty Thousand Dollars (\$250,000.00);

18 7. Methylenedioxy methamphetamine:

19 a. thirty (30) tablets or ten (10) grams of a mixture or  
20 substance containing a detectable amount of 3,4-  
21 Methylenedioxy methamphetamine shall be trafficking  
22 punishable by a term of imprisonment in the custody of  
23 the Department of Corrections not to exceed twenty  
24 (20) years and by a fine of not less than Twenty-five

1           Thousand Dollars (\$25,000.00) and not more than One  
2           Hundred Thousand Dollars (\$100,000.00), or

3           b.    one hundred (100) tablets or thirty (30) grams of a  
4           mixture or substance containing a detectable amount of  
5           3,4-Methylenedioxy methamphetamine shall be deemed  
6           aggravated trafficking punishable by a term of  
7           imprisonment in the custody of the Department of  
8           Corrections of not less than two (2) years nor more  
9           than life by a fine of not less than One Hundred  
10          Thousand Dollars (\$100,000.00) and not more than Five  
11          Hundred Thousand Dollars (\$500,000.00);

12          8.   Morphine: One thousand (1,000) grams or more of a mixture  
13          containing a detectable amount of morphine shall be trafficking  
14          punishable by a term of imprisonment in the custody of the  
15          Department of Corrections not to exceed twenty (20) years and by a  
16          fine of not less than One Hundred Thousand Dollars (\$100,000.00) and  
17          not more than Five Hundred Thousand Dollars (\$500,000.00);

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

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

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

14           12. Fentanyl and its analogs and derivatives: ~~a. one~~ One (1)  
15 gram or more of a mixture containing a detectable amount of fentanyl  
16 or carfentanil, or any fentanyl analogs or derivatives shall be  
17 trafficking punishable by death or by a term of imprisonment in the  
18 custody of the Department of Corrections ~~not to exceed twenty (20)~~  
19 ~~years and by a fine of not less than One Hundred Thousand Dollars~~  
20 ~~(\$100,000.00) and not more than Two Hundred Fifty Thousand Dollars~~  
21 ~~(\$250,000.00), or~~

22                   ~~b. five (5) grams or more of a mixture containing~~  
23                   ~~fentanyl or carfentanil, or any fentanyl analogs or~~  
24                   ~~derivatives shall be aggravated trafficking punishable~~

1 ~~by a term of imprisonment in the custody of the~~  
2 ~~Department of Corrections of not less than two (2)~~  
3 ~~years nor more than life and by a fine of not less~~  
4 ~~than Two Hundred Fifty Thousand Dollars (\$250,000.00)~~  
5 ~~and not more than Five Hundred Thousand Dollars~~  
6 ~~(\$500,000.00) for life or life without parole.~~

7 D. Any person who violates the provisions of this section with  
8 respect to marijuana, cocaine, coca leaves, cocaine base, heroin,  
9 amphetamine or methamphetamine in a quantity specified in paragraphs  
10 1, 2, 3 and 4 of subsection C of this section shall, in addition to  
11 any fines specified by this section, be punishable by a term of  
12 imprisonment as follows:

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

16 2. For trafficking, a second violation of this section, a term  
17 of imprisonment in the Department of Corrections of not less than  
18 four (4) years nor more than life, for which the person shall serve  
19 fifty percent (50%) of the sentence before being eligible for parole  
20 consideration;

21 3. For trafficking, a third or subsequent violation of this  
22 section, a term of imprisonment in the custody of the Department of  
23 Corrections of not less than twenty (20) years nor more than life,  
24

1 of which the person shall serve fifty percent (50%) of the sentence  
2 before being eligible for parole consideration.

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

7 If the person is convicted of aggravated trafficking, the person  
8 shall serve eighty-five percent (85%) of such sentence before being  
9 eligible for parole consideration.

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

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

19 SECTION 3. This act shall become effective November 1, 2023.

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21 59-1-5547 GRS 01/11/23

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