

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1567

By: Boatman of the House

and

Weaver of the Senate

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10 COMMITTEE SUBSTITUTE

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

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

22 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-415, as
23 last amended by Section 40, Chapter 25, O.S.L. 2019 (63 O.S. Supp.
24 2020, Section 2-415), is amended to read as follows:

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

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

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

- 20 1. Knowingly distribute, manufacture, bring into this state or
21 possess a controlled substance specified in subsection A of this
22 section in the quantities specified in subsection C of this section;

1 2. Possess any controlled substance with the intent to
2 manufacture a controlled substance specified in subsection A of this
3 section in quantities specified in subsection C of this section; or

4 3. Use or solicit the use of services of a person less than
5 eighteen (18) years of age to distribute or manufacture a controlled
6 dangerous substance specified in subsection A of this section in
7 quantities specified in subsection C of this section.

8 Violation of this section shall be known as "trafficking in
9 illegal drugs". Separate types of controlled substances described
10 in subsection A of this section when possessed at the same time in
11 violation of any provision of this section shall constitute a
12 separate offense for each substance.

13 Any person who commits the conduct described in paragraph 1, 2
14 or 3 of this subsection and represents the quantity of the
15 controlled substance to be an amount described in subsection C of
16 this section shall be punished under the provisions appropriate for
17 the amount of controlled substance represented, regardless of the
18 actual amount.

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

21 1. ~~Marihuana~~ Marijuana:

22 a. twenty-five (25) pounds or more of a mixture or
23 substance containing a detectable amount of ~~marihuana~~
24 marijuana shall be punishable by a fine of not less

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

- 4 b. one thousand (1,000) pounds or more of a mixture or
5 substance containing a detectable amount of ~~marihuana~~
6 marijuana shall be deemed aggravated trafficking
7 punishable by a fine of not less than One Hundred
8 Thousand Dollars (\$100,000.00) and not more than Five
9 Hundred Thousand Dollars (\$500,000.00);

10 2. Cocaine, coca leaves or cocaine base:

- 11 a. twenty-eight (28) grams or more of a mixture or
12 substance containing a detectable amount of cocaine,
13 coca leaves or cocaine base shall be punishable by a
14 fine of not less than Twenty-five Thousand Dollars
15 (\$25,000.00) and not more than One Hundred Thousand
16 Dollars (\$100,000.00),

- 17 b. three hundred (300) grams or more of a mixture or
18 substance containing a detectable amount of cocaine,
19 coca leaves or cocaine base shall be punishable by a
20 fine of not less than One Hundred Thousand Dollars
21 (\$100,000.00) 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 cocaine,

1 coca leaves or cocaine base shall be deemed aggravated
2 trafficking punishable by a fine of not less than One
3 Hundred Thousand Dollars (\$100,000.00) and not more
4 than Five Hundred Thousand Dollars (\$500,000.00);

5 3. Heroin:

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

11 b. twenty-eight (28) grams or more of a mixture or
12 substance containing a detectable amount of heroin
13 shall be deemed aggravated trafficking punishable by a
14 fine of not less than Fifty Thousand Dollars
15 (\$50,000.00) and not more than Five Hundred Thousand
16 Dollars (\$500,000.00);

17 4. Amphetamine or methamphetamine:

18 a. twenty (20) grams or more of a mixture or substance
19 containing a detectable amount of amphetamine or
20 methamphetamine shall be punishable by a fine of not
21 less than Twenty-five Thousand Dollars (\$25,000.00)
22 and not more than Two Hundred Thousand Dollars
23 (\$200,000.00),
24

1 b. two hundred (200) grams or more of a mixture or
2 substance containing a detectable amount of
3 amphetamine or methamphetamine shall be punishable by
4 a fine of not less than Fifty Thousand Dollars
5 (\$50,000.00) and not more than Five Hundred Thousand
6 Dollars (\$500,000.00), or

7 c. four hundred fifty (450) grams or more of a mixture or
8 substance containing a detectable amount of
9 amphetamine or methamphetamine shall be deemed
10 aggravated trafficking punishable by a fine of not
11 less than Fifty Thousand Dollars (\$50,000.00) and not
12 more than Five Hundred Thousand Dollars (\$500,000.00);

13 5. Lysergic acid diethylamide (LSD):

14 a. one (1) gram or more of a mixture or substance
15 containing a detectable amount of lysergic acid
16 diethylamide (LSD) shall be trafficking punishable by
17 a term of imprisonment in the custody of the
18 Department of Corrections not to exceed twenty (20)
19 years and by a fine of not less than Fifty Thousand
20 Dollars (\$50,000.00) and not more than One Hundred
21 Thousand Dollars (\$100,000.00), or

22 b. ten (10) grams or more of a mixture or substance
23 containing a detectable amount of lysergic acid
24 diethylamide (LSD) shall be aggravated trafficking

1 punishable by a term of imprisonment in the custody of
2 the Department of Corrections of not less than two (2)
3 years nor more than life and by a fine of not less
4 than One Hundred Thousand Dollars (\$100,000.00) and
5 not more than Two Hundred Fifty Thousand Dollars
6 (\$250,000.00);

7 6. Phencyclidine (PCP):

- 8 a. twenty (20) grams or more of a substance containing a
9 mixture or substance containing a detectable amount of
10 phencyclidine (PCP) shall be trafficking punishable by
11 a term of imprisonment in the custody of the
12 Department of Corrections not to exceed twenty (20)
13 years and by a fine of not less than Twenty Thousand
14 Dollars (\$20,000.00) and not more than Fifty Thousand
15 Dollars (\$50,000.00), or
- 16 b. one hundred fifty (150) grams or more of a substance
17 containing a mixture or substance containing a
18 detectable amount of phencyclidine (PCP) shall be
19 aggravated trafficking punishable by a term of
20 imprisonment in the custody of the Department of
21 Corrections of not less than two (2) years nor more
22 than life and by a fine of not less than Fifty
23 Thousand Dollars (\$50,000.00) and not more than Two
24 Hundred Fifty Thousand Dollars (\$250,000.00);

1 7. Methylenedioxy methamphetamine:

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

10 b. one hundred (100) tablets or thirty (30) grams of a
11 mixture or substance containing a detectable amount of
12 3,4-Methylenedioxy methamphetamine shall be deemed
13 aggravated trafficking punishable by a term of
14 imprisonment in the custody of the Department of
15 Corrections of not less than two (2) years nor more
16 than life by a fine of not less than One Hundred
17 Thousand Dollars (\$100,000.00) and not more than Five
18 Hundred Thousand Dollars (\$500,000.00);

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

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

7 10. Hydrocodone: Three thousand seven hundred and fifty
8 (3,750) grams or more of a mixture containing a detectable amount of
9 hydrocodone shall be trafficking punishable by a term of
10 imprisonment in the custody of the Department of Corrections not to
11 exceed 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);

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

20 12. Fentanyl and its analogs and derivatives: ~~One~~
21 a. one (1) gram or more of a mixture containing fentanyl
22 or carfentanil, or any fentanyl analogs or derivatives
23 shall be trafficking punishable by a term of
24 imprisonment in the custody of the Department of

1 Corrections not to exceed twenty (20) years and by a
2 fine of not less than One Hundred Thousand Dollars
3 (\$100,000.00) and not more than ~~Five Hundred Thousand~~
4 ~~Dollars (\$500,000.00) Two Hundred Fifty Thousand~~
5 Dollars (\$250,000.00), or

6 b. five (5) grams or more of a mixture containing
7 fentanyl or carfentanil, or any fentanyl analogs or
8 derivatives shall be aggravated trafficking punishable
9 by a term of imprisonment in the custody of the
10 Department of Corrections of not less than two (2)
11 years nor more than life and by a fine of not less
12 than Two Hundred Fifty Thousand Dollars (\$250,000.00)
13 and not more than Five Hundred Thousand Dollars
14 (\$500,000.00).

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

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

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

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

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

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

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

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

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

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14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
15 02/10/2021 - DO PASS, As Amended and Coauthored.

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