

1 **SENATE FLOOR VERSION**

2 March 24, 2021

3 ENGROSSED HOUSE
4 BILL NO. 1567

By: Boatman of the House

5 and

6 Weaver of the Senate

7
8
9 An Act relating to public health and safety; amending
10 63 O.S. 2011, Section 2-415, as last amended by
11 Section 40, Chapter 25, O.S.L. 2019 (63 O.S. Supp.
12 2020, Section 2-415), which relates to the Uniform
13 Controlled Dangerous Substances Act; deeming certain
14 unlawful act as aggravated trafficking; modifying
15 certain penalties; decreasing certain fine amount;
16 providing separate penalty provision for aggravated
17 trafficking of fentanyl; updating internal citations;
18 and providing an effective date.

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

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

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

- 25 1. ~~Marihuana~~ Marijuana;
- 26 2. Cocaine or coca leaves;

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

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

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

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. ~~Marihuana~~ Marijuana:

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

21 b. one thousand (1,000) pounds or more of a mixture or
22 substance containing a detectable amount of ~~marihuana~~
23 marijuana shall be deemed aggravated trafficking
24 punishable by a fine of not less than One Hundred

1 Thousand Dollars (\$100,000.00) and not more than Five
2 Hundred Thousand 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);

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1 10. Hydrocodone: Three thousand seven hundred ~~and~~ fifty
2 (3,750) 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: ~~One~~

15 a. one (1) gram or more of a mixture containing fentanyl
16 or carfentanil, or any fentanyl analogs or derivatives
17 shall be trafficking punishable by a term of
18 imprisonment in the custody of the Department of
19 Corrections not to exceed twenty (20) years and 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) Two Hundred Fifty Thousand~~
23 Dollars (\$250,000.00), or

24

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

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

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

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

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

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

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

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

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

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

8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
9 March 24, 2021 - DO PASS

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