

# An Act

ENROLLED HOUSE  
BILL NO. 2153

By: Ford, Humphrey, McDugle,  
Banning, Tedford, George,  
Hardin, Grego, Williams,  
Manger, Patzkowsky,  
Luttrell, and May of the  
House

and

Bergstrom, Pederson, and  
Standridge of the Senate

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 2021, Section 2-402, as amended by Section 3, State Question No. 780, Initiative Petition No. 404, which relates to prohibited acts and penalties; updating statutory reference; providing for misdemeanor upon conviction; authorizing the court to make certain orders under certain circumstances; authorizing certain drug testing requirement; authorizing the court to impose certain punishment; requiring certain felony; requiring certain felony change to a misdemeanor under certain circumstances; prohibiting application of certain provisions for possession of marijuana; and providing an effective date.

SUBJECT: Uniform Controlled Dangerous Substances Act

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-402, as amended by Section 3, State Question No. 780, Initiative Petition No. 404, 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 an amount or within a time interval other than that permitted by Section 2-313 of this title.

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

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

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

2. Any person who violates this section a second time within ten (10) years, upon conviction, shall be guilty of a misdemeanor. The court may, with the consent of the defendant, order the defendant to complete a substance abuse assessment and evaluation and to complete a diversion program for up to one (1) year following the date of conviction in lieu of other punishments. At the discretion of the court, the diversion program may include drug testing as a requirement. If the defendant refuses or fails to complete the assessment and evaluation or diversion program, the court may impose punishment as provided for in paragraph 1 of this

subsection. The provisions of this paragraph shall not apply to violations related to the possession of marijuana.

3. Any person who violates this section a third time within ten (10) years shall, upon conviction, be guilty of a misdemeanor punishable by a fine not exceeding One Thousand Dollars (\$1,000.00), imprisonment in the county jail for a minimum of thirty (30) days, or by both such fine and imprisonment. The court may, with the consent of the defendant, order the defendant to complete a substance abuse assessment and evaluation and to complete a diversion program for up to three (3) years following the date of conviction. At the discretion of the court, the diversion program may include drug testing as a requirement. If the defendant refuses or fails to complete the assessment and evaluation or diversion program, the court may impose punishment as provided for in paragraph 1 of this subsection. The provisions of this paragraph shall not apply to violations related to the possession of marijuana.

4. a. Any person who violates this section a fourth time within ten (10) years shall, upon conviction, be guilty of a felony punishable by a fine not exceeding Five Thousand Dollars (\$5,000.00), imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or by both such fine and imprisonment.
- b. Upon a verdict or plea of guilty or upon a plea of nolo contendere, but before a judgment of guilt of a violation of this paragraph, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the specific conditions prescribed by the court not to exceed a three-year period. The court may, with the consent of the defendant, order the defendant to complete a substance abuse assessment and evaluation and to complete a diversion program for up to three (3) years.
- c. Upon successful completion of the court-ordered substance abuse assessment and evaluation and diversion program within the time prescribed, the felony charge shall be changed to a misdemeanor. If the defendant refuses or fails to complete the assessment and evaluation or diversion program, the

court may impose punishment as provided for in  
subparagraph a of this paragraph.

d. The provisions of this paragraph shall not apply to  
violations related to the possession of marijuana.

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

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

Passed the House of Representatives the 16th day of May, 2023.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 27th day of April, 2023.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_