

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. 1

COMMITTEE AMENDMENT

(Date)

I move to amend House Bill No. 2153, by substituting the attached floor substitute (Request # 2168) for the title, enacting clause and entire body of the measure.

Submitted by:

Roland Pederson
Senator Pederson
Michael Bergstrom 4/26/2023
Senator Bergstrom

I hereby grant permission for the floor substitute to be adopted.

Darryl Jeck
Senator Jeck, Chair (required)
Bill Coleman
Senator Coleman

B. G. Gollihare
Senator Gollihare

Senator Hicks

Senator Brooks

Senator Matthews
Roland Pederson
Senator Pederson

Senator Burns
Nathan Dahm
Senator Dahm

Senator Stephens
Kristen Thompson
Senator Thompson (Kristen)

Tom Dugger
Senator Dugger

Senator Treat, President Pro Tempore

Senator McCortney, Majority Floor Leader

Note: Public Safety committee majority requires seven (7) members' signatures.

Pederson-JES-FA1-HB2153
4/26/2023 8:45 AM

(Floor Amendments Only)

Date and Time Filed: 4-26-23 4:34 pm jd

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

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

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 2153

By: Ford of the House

and

Bergstrom and Pederson of
the Senate

8
9 FLOOR SUBSTITUTE

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

24 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

1 substance unless such substance was obtained directly, or pursuant
2 to a valid prescription or order from a practitioner, while acting
3 in the course of his or her professional practice, or except as
4 otherwise authorized by ~~this act~~ Section 2-101 et seq. of this
5 title.

6 2. It shall be unlawful for any person to purchase any
7 preparation excepted from the provisions of the Uniform Controlled
8 Dangerous Substances Act pursuant to Section 2-313 of this title in
9 an amount or within a time interval other than that permitted by
10 Section 2-313 of this title.

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

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

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

4 2. Any person who violates this section a second time within
5 ten (10) years, upon conviction, shall be guilty of a misdemeanor.
6 The court may, with the consent of the defendant, order the
7 defendant to complete a substance abuse assessment and evaluation
8 and to complete a diversion program for up to one (1) year following
9 the date of conviction in lieu of other punishments. At the
10 discretion of the court, the diversion program may include drug
11 testing as a requirement. If the defendant refuses or fails to
12 complete the assessment and evaluation or diversion program, the
13 court may impose punishment as provided for in paragraph 1 of this
14 subsection. The provisions of this paragraph shall not apply to
15 violations related to the possession of marijuana.

16 3. Any person who violates this section a third time within ten
17 (10) years shall, upon conviction, be guilty of a misdemeanor
18 punishable by a fine not exceeding One Thousand Dollars (\$1,000.00),
19 imprisonment in the county jail for a minimum of thirty (30) days,
20 or by both such fine and imprisonment. The court may, with the
21 consent of the defendant, order the defendant to complete a
22 substance abuse assessment and evaluation and to complete a
23 diversion program for up to three (3) years following the date of
24 conviction. At the discretion of the court, the diversion program

1 may include drug testing as a requirement. If the defendant refuses
2 or fails to complete the assessment and evaluation or diversion
3 program, the court may impose punishment as provided for in
4 paragraph 1 of this subsection. The provisions of this paragraph
5 shall not apply to violations related to the possession of
6 marijuana.

7 4. a. Any person who violates this section a fourth time
8 within ten (10) years shall, upon conviction, be
9 guilty of a felony punishable by a fine not exceeding
10 Five Thousand Dollars (\$5,000.00), imprisonment in the
11 custody of the Department of Corrections for not less
12 than one (1) year nor more than five (5) years, or by
13 both such fine and imprisonment.

14 b. Upon a verdict or plea of guilty or upon a plea of
15 nolo contendere, but before a judgment of guilt of a
16 violation of this paragraph, the court may, without
17 entering a judgment of guilt and with the consent of
18 the defendant, defer further proceedings upon the
19 specific conditions prescribed by the court not to
20 exceed a three-year period. The court may, with the
21 consent of the defendant, order the defendant to
22 complete a substance abuse assessment and evaluation
23 and to complete a diversion program for up to three
24 (3) years.

1 c. Upon successful completion of the court-ordered
2 substance abuse assessment and evaluation and
3 diversion program ordered by the court within the time
4 prescribed, the felony charge shall be changed to a
5 misdemeanor. If the defendant refuses or fails to
6 complete the assessment and evaluation or diversion
7 program, the court may impose punishment as provided
8 for in subparagraph a of this paragraph.

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

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

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

17
18 59-1-2168 JES 4/26/2023 5:19:57 PM
19
20
21
22
23
24