

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 1100

By: Rosino

AS INTRODUCED

An Act relating to fentanyl trafficking; amending 63 O.S. 2021, Section 2-415, which relates to fines and penalties; increasing certain penalties; removing certain probation eligibility; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-415, is amended to read as follows:

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

1. Marijuana;
2. Cocaine or coca leaves;
3. Heroin;
4. Amphetamine or methamphetamine;
5. Lysergic acid diethylamide (LSD);
6. Phencyclidine (PCP);
7. Cocaine base, commonly known as "crack" or "rock";

1 8. 3,4-Methylenedioxy methamphetamine, commonly known as
2 "ecstasy" or MDMA;

3 9. Morphine;

4 10. Oxycodone;

5 11. Hydrocodone;

6 12. Benzodiazepine; or

7 13. Fentanyl and its analogs and derivatives.

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

10 1. Knowingly distribute, manufacture, bring into this state or
11 possess a controlled substance specified in subsection A of this
12 section in the quantities specified in subsection C of this section;

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

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

20 Violation of this section shall be known as "trafficking in
21 illegal drugs". Separate types of controlled substances described
22 in subsection A of this section when possessed at the same time in
23 violation of any provision of this section shall constitute a
24 separate offense for each substance.

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

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

9 1. Marijuana:

- 10 a. twenty-five (25) pounds or more of a mixture or
11 substance containing a detectable amount of marijuana
12 shall be punishable by a fine of not less than Twenty-
13 five Thousand Dollars (\$25,000.00) and not more than
14 One Hundred Thousand Dollars (\$100,000.00), or
15 b. one thousand (1,000) pounds or more of a mixture or
16 substance containing a detectable amount of marijuana
17 shall be deemed aggravated trafficking punishable by a
18 fine of not less than One Hundred Thousand Dollars
19 (\$100,000.00) and not more than Five Hundred Thousand
20 Dollars (\$500,000.00);

21 2. Cocaine, coca leaves or cocaine base:

- 22 a. twenty-eight (28) grams or more of a mixture or
23 substance containing a detectable amount of cocaine,
24 coca leaves or cocaine base shall be punishable by a

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

4 b. three hundred (300) 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 One Hundred Thousand Dollars
8 (\$100,000.00) and not more than Five Hundred Thousand
9 Dollars (\$500,000.00), or

10 c. four hundred fifty (450) grams or more of a mixture or
11 substance containing a detectable amount of cocaine,
12 coca leaves or cocaine base shall be deemed aggravated
13 trafficking punishable by a fine of not less than One
14 Hundred Thousand Dollars (\$100,000.00) and not more
15 than Five Hundred Thousand Dollars (\$500,000.00);

16 3. Heroin:

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

22 b. twenty-eight (28) grams or more of a mixture or
23 substance containing a detectable amount of heroin
24 shall be deemed aggravated trafficking punishable by a
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1 fine of not less than Fifty Thousand Dollars
2 (\$50,000.00) and not more than Five Hundred Thousand
3 Dollars (\$500,000.00);

4 4. Amphetamine or methamphetamine:

5 a. twenty (20) grams or more of a mixture or substance
6 containing a detectable amount of amphetamine or
7 methamphetamine shall be punishable by a fine of not
8 less than Twenty-five Thousand Dollars (\$25,000.00)
9 and not more than Two Hundred Thousand Dollars
10 (\$200,000.00),

11 b. two hundred (200) grams or more of a mixture or
12 substance containing a detectable amount of
13 amphetamine or methamphetamine shall be punishable by
14 a fine of not less than Fifty Thousand Dollars
15 (\$50,000.00) and not more than Five Hundred Thousand
16 Dollars (\$500,000.00), or

17 c. four hundred fifty (450) grams or more of a mixture or
18 substance containing a detectable amount of
19 amphetamine or methamphetamine shall be deemed
20 aggravated trafficking punishable by a fine of not
21 less than Fifty Thousand Dollars (\$50,000.00) and not
22 more than Five Hundred Thousand Dollars (\$500,000.00);

23 5. Lysergic acid diethylamide (LSD):
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1 a. one (1) gram or more of a mixture or substance
2 containing a detectable amount of lysergic acid
3 diethylamide (LSD) 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 Fifty Thousand
7 Dollars (\$50,000.00) and not more than One Hundred
8 Thousand Dollars (\$100,000.00), or

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

18 6. Phencyclidine (PCP):

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

- 3 b. one hundred fifty (150) grams or more of a substance
4 containing a mixture or substance containing a
5 detectable amount of phencyclidine (PCP) shall be
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 and by a fine of not less than Fifty
10 Thousand Dollars (\$50,000.00) and not more than Two
11 Hundred Fifty Thousand Dollars (\$250,000.00);

12 7. Methylenedioxy methamphetamine:

- 13 a. thirty (30) tablets or ten (10) grams of a mixture or
14 substance containing a detectable amount of 3,4-
15 Methylenedioxy methamphetamine shall be trafficking
16 punishable by a term of imprisonment in the custody of
17 the Department of Corrections not to exceed twenty
18 (20) years and by a fine of not less than Twenty-five
19 Thousand Dollars (\$25,000.00) and not more than One
20 Hundred Thousand Dollars (\$100,000.00), or
- 21 b. one hundred (100) tablets or thirty (30) grams of a
22 mixture or substance containing a detectable amount of
23 3,4-Methylenedioxy methamphetamine shall be deemed
24 aggravated trafficking punishable by a term of

1 imprisonment in the custody of the Department of
2 Corrections of not less than two (2) years nor more
3 than life by a fine of not less than One Hundred
4 Thousand Dollars (\$100,000.00) and not more than Five
5 Hundred Thousand Dollars (\$500,000.00);

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

12 9. Oxycodone: Four hundred (400) grams or more of a mixture
13 containing a detectable amount of oxycodone 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 10. Hydrocodone: Three thousand seven hundred fifty (3,750)
19 grams or more of a mixture containing a detectable amount of
20 hydrocodone shall be trafficking punishable by a term of
21 imprisonment in the custody of the Department of Corrections not to
22 exceed twenty (20) years and by a fine of not less than One Hundred
23 Thousand Dollars (\$100,000.00) and not more than Five Hundred
24 Thousand Dollars (\$500,000.00);

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

7 12. Fentanyl and its analogs and derivatives:

8 a. one (1) gram or more of a mixture containing fentanyl
9 or carfentanil, or any fentanyl analogs or derivatives
10 shall be trafficking punishable by a term of
11 imprisonment in the custody of the Department of
12 Corrections for not less than five (5) years and not
13 to exceed ~~twenty (20) years~~ thirty (30) years and by a
14 fine of not less than ~~One Hundred Thousand Dollars~~
15 ~~(\$100,000.00)~~ One Hundred Fifty Thousand Dollars
16 (\$150,000.00) and not more than ~~Two Hundred Fifty~~
17 ~~Thousand Dollars (\$250,000.00)~~ Three Hundred Thousand
18 Dollars (\$300,000.00), ~~or~~

19 b. five (5) grams or more of a mixture containing
20 fentanyl or carfentanil, or any fentanyl analogs or
21 derivatives shall be aggravated trafficking punishable
22 by a term of imprisonment in the custody of the
23 Department of Corrections of not less than ~~two (2)~~
24 ~~years~~ five (5) years nor more than life and by a fine

1 of not less than ~~Two Hundred Fifty Thousand Dollars~~
2 ~~(\$250,000.00)~~ Three Hundred Thousand Dollars
3 (\$300,000.00) and not more than ~~Five Hundred Thousand~~
4 ~~Dollars (\$500,000.00)~~ Six Hundred Thousand Dollars
5 (\$600,000.00), or

6 c. any person convicted of a violation of subparagraph a
7 or b of this paragraph shall not be eligible for
8 probation.

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

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

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

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

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

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

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

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

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

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