

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2868

By: Lowe

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 63 O.S. 2011, Section 2-415, as last amended by
9 Section 1, Chapter 258, O.S.L. 2015 (63 O.S. Supp.
10 2017, Section 2-415), which relates to the
11 Trafficking in Illegal Drugs Act; modifying threshold
12 amounts for certain substance; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-415, as
16 last amended by Section 1, Chapter 258, O.S.L. 2015 (63 O.S. Supp.
17 2017, Section 2-415), is amended to read as follows:

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

- 21 1. Marihuana;
- 22 2. Cocaine or coca leaves;
- 23 3. Heroin;
- 24 4. Amphetamine or methamphetamine;
5. Lysergic acid diethylamide (LSD);

- 1 6. Phencyclidine (PCP);
- 2 7. Cocaine base, commonly known as "crack" or "rock";
- 3 8. 3,4-Methylenedioxy methamphetamine, commonly known as
- 4 "ecstasy" or MDMA;
- 5 9. Morphine;
- 6 10. Oxycodone;
- 7 11. Hydrocodone; or
- 8 12. Benzodiazepine.

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

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

21 Violation of this section shall be known as "trafficking in
22 illegal drugs". Separate types of controlled substances described
23 in subsection A of this section when possessed at the same time in

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1 violation of any provision of this section shall constitute a
2 separate offense for each substance.

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

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

11 1. Marihuana:

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

17 b. one thousand (1,000) pounds or more of a mixture or
18 substance containing a detectable amount of marihuana
19 shall be deemed aggravated trafficking 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);

23 2. Cocaine or coca leaves:
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- 1 a. twenty-eight (28) grams or more of a mixture or
2 substance containing a detectable amount of cocaine or
3 coca leaves shall be punishable by a fine of not less
4 than Twenty-five Thousand Dollars (\$25,000.00) and not
5 more than One Hundred Thousand Dollars (\$100,000.00),
6 b. three hundred (300) grams or more of a mixture or
7 substance containing a detectable amount of cocaine or
8 coca leaves shall be punishable by a fine of not less
9 than One Hundred Thousand Dollars (\$100,000.00) and
10 not more than Five Hundred Thousand Dollars
11 (\$500,000.00), or
12 c. four hundred fifty (450) grams or more of a mixture or
13 substance containing a detectable amount of cocaine or
14 coca leaves shall be deemed aggravated trafficking
15 punishable by a fine of not less than One Hundred
16 Thousand Dollars (\$100,000.00) and not more than Five
17 Hundred Thousand Dollars (\$500,000.00);

18 3. Heroin:

- 19 a. ten (10) grams or more of a mixture or substance
20 containing a detectable amount of heroin shall be
21 punishable by a fine of not less than Twenty-five
22 Thousand Dollars (\$25,000.00) and not more than Fifty
23 Thousand Dollars (\$50,000.00), or
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1 b. twenty-eight (28) grams or more of a mixture or
2 substance containing a detectable amount of heroin
3 shall be punishable by a fine of not less than Fifty
4 Thousand Dollars (\$50,000.00) and not more than Five
5 Hundred Thousand Dollars (\$500,000.00);

6 4. Amphetamine or methamphetamine:

7 a. twenty (20) grams or more of a mixture or substance
8 containing a detectable amount of amphetamine or
9 methamphetamine shall be punishable by a fine of not
10 less than Twenty-five Thousand Dollars (\$25,000.00)
11 and not more than Two Hundred Thousand Dollars
12 (\$200,000.00),

13 b. two hundred (200) grams or more of a mixture or
14 substance containing a detectable amount of
15 amphetamine or methamphetamine shall be punishable by
16 a fine of not less than Fifty Thousand Dollars
17 (\$50,000.00) and not more than Five Hundred Thousand
18 Dollars (\$500,000.00), or

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

1 5. Lysergic acid diethylamide (LSD):

2 a. one (1) gram or more of a mixture or substance
3 containing a detectable amount of lysergic acid
4 diethylamide (LSD) shall be punishable by a fine of
5 not less than Fifty Thousand Dollars (\$50,000.00) and
6 not more than One Hundred Thousand Dollars
7 (\$100,000.00), or

8 b. ten (10) grams or more of a mixture or substance
9 containing a detectable amount of lysergic acid
10 diethylamide (LSD) shall be punishable by a fine of
11 not less than One Hundred Thousand Dollars
12 (\$100,000.00) and not more than Two Hundred Fifty
13 Thousand Dollars (\$250,000.00);

14 6. Phencyclidine (PCP):

15 a. twenty (20) grams or more of a substance containing a
16 mixture or substance containing a detectable amount of
17 phencyclidine (PCP) shall be punishable by a fine of
18 not less than Twenty Thousand Dollars (\$20,000.00) and
19 not more than Fifty Thousand Dollars (\$50,000.00), or

20 b. one hundred fifty (150) grams or more of a substance
21 containing a mixture or substance containing a
22 detectable amount of phencyclidine (PCP) shall be
23 punishable by a fine of not less than Fifty Thousand
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1 Dollars (\$50,000.00) and not more than Two Hundred
2 Fifty Thousand Dollars (\$250,000.00);

3 7. Cocaine base:

4 a. ~~five (5)~~ twenty-eight (28) grams or more of a mixture
5 or substance described in paragraph 2 of this
6 subsection which contains cocaine base shall be
7 punishable 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. ~~fifty (50)~~ three hundred (300) grams or more of a
11 mixture or substance described in paragraph 2 of this
12 subsection which contains cocaine base shall be
13 punishable by a fine of not less than One Hundred
14 Thousand Dollars (\$100,000.00) and not more than Five
15 Hundred Thousand Dollars (\$500,000.00);

16 8. Methylenedioxy methamphetamine:

17 a. thirty (30) tablets or ten (10) grams of a mixture or
18 substance containing a detectable amount of 3,4-
19 Methylenedioxy methamphetamine shall be punishable by
20 a fine of not less than Twenty-five Thousand Dollars
21 (\$25,000.00) and not more than One Hundred Thousand
22 Dollars (\$100,000.00), or

23 b. one hundred (100) tablets or thirty (30) grams of a
24 mixture or substance containing a detectable amount of

1 3,4-Methylenedioxy methamphetamine shall be punishable
2 by a fine of not less than One Hundred Thousand
3 Dollars (\$100,000.00) and not more than Five Hundred
4 Thousand Dollars (\$500,000.00);

5 9. Morphine: One thousand (1,000) grams or more of a mixture
6 containing a detectable amount of morphine shall be punishable by a
7 fine of not less than One Hundred Thousand Dollars (\$100,000.00) and
8 not more than Five Hundred Thousand Dollars (\$500,000.00);

9 10. Oxycodone: Four hundred (400) grams or more of a mixture
10 containing a detectable amount of oxycodone shall be punishable by a
11 fine of not less than One Hundred Thousand Dollars (\$100,000.00) and
12 not more than Five Hundred Thousand Dollars (\$500,000.00);

13 11. Hydrocodone: Three thousand seven hundred and fifty
14 (3,750) grams or more of a mixture containing a detectable amount of
15 hydrocodone shall be punishable by a fine of not less than One
16 Hundred Thousand Dollars (\$100,000.00) and not more than Five
17 Hundred Thousand Dollars (\$500,000.00); and

18 12. Benzodiazepine: Five hundred (500) grams or more of a
19 mixture containing a detectable amount of benzodiazepine shall be
20 punishable by a fine of not less than One Hundred Thousand Dollars
21 (\$100,000.00) and not more than Five Hundred Thousand Dollars
22 (\$500,000.00).

23 D. Any person who violates the provisions of this section with
24 respect to a controlled substance specified in subsection A of this

1 section in a quantity specified in subsection C of this section
2 shall, in addition to any fines specified by this section, be
3 punishable by a term of imprisonment as follows:

4 1. Not less than twice the term of imprisonment provided for in
5 Section 2-401 of this title;

6 2. If the person has previously been convicted of one violation
7 of this section or has been previously convicted of a felony
8 violation of the Uniform Controlled Dangerous Substances Act arising
9 from separate and distinct transactions, not less than three times
10 the term of imprisonment provided for in Section 2-401 of this
11 title;

12 3. If the person has previously been convicted of two or more
13 violations of this section or any provision of the Uniform
14 Controlled Dangerous Substances Act which constitutes a felony, or a
15 combination of such violations arising out of separate and distinct
16 transactions, not less than twenty (20) years to life imprisonment
17 or life without parole; provided, if the person has been previously
18 convicted of two or more drug trafficking violations, the punishment
19 shall be life without parole; and

20 4. If the person is convicted of aggravated trafficking as
21 provided in subparagraph b of paragraph 1 of subsection C of this
22 section, subparagraph c of paragraph 2 of subsection C of this
23 section or subparagraph c of paragraph 4 of subsection C of this
24 section, a mandatory minimum sentence of imprisonment in the custody

1 of the Department of Corrections for a term of fifteen (15) years of
2 which the person shall serve eighty-five percent (85%) of such
3 mandatory sentence before being eligible for parole consideration or
4 any earned credits.

5 The terms of imprisonment specified in this subsection shall not
6 be subject to statutory provisions for suspension, deferral or
7 probation, or state correctional institution earned credits accruing
8 from and after November 1, 1989, except for the achievement earned
9 credits authorized by subsection H of Section 138 of Title 57 of the
10 Oklahoma Statutes. To qualify for such achievement credits, such
11 inmates must also be in compliance with the standards for Class
12 level 2 behavior, as defined in subsection D of Section 138 of Title
13 57 of the Oklahoma Statutes.

14 Persons convicted of violations of this section shall not be
15 eligible for appeal bonds.

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

22 SECTION 2. This act shall become effective November 1, 2018.

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24 56-2-8541 GRS 12/27/17