

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2956

By: Thomsen

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5
6 AS INTRODUCED

7 An Act relating to drugs; amending 63 O.S. 2011,
8 Section 2-402, as last amended by Section 3, State
9 Question No. 780, Initiative Petition No. 404, which
10 relates to the Uniform Controlled Dangerous
11 Substances Act; modifying penalties for possession of
12 controlled dangerous substances; 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 2-402, as
16 last amended by Section 3, State Question No. 780, Initiative
17 Petition No. 404, is amended to read as follows:

18 Section 2-402. A. 1. It shall be unlawful for any person
19 knowingly or intentionally to possess a controlled dangerous
20 substance unless such substance was obtained directly, or pursuant
21 to a valid prescription or order from a practitioner, while acting
22 in the course of his or her professional practice, or except as
23 otherwise authorized by this act.

24 2. It shall be unlawful for any person to purchase any
preparation excepted from the provisions of the Uniform Controlled

1 Dangerous Substances Act pursuant to Section 2-313 of this title in
2 an amount or within a time interval other than that permitted by
3 Section 2-313 of this title.

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

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

18 B. Any person who violates this section with respect to:

- 19 1. Any Schedule I substance, except marijuana or a substance
20 included in subsection D of Section 2-206 of this title, is guilty
21 of a felony punishable by imprisonment in the custody of the
22 Department of Corrections for not more than one (1) year, or by a
23 fine not exceeding Two Thousand Five Hundred Dollars (\$2,500.00), or
24 by both such fine and imprisonment. A second violation of this

1 section with respect to a Schedule I substance, except marijuana or
2 a substance included in subsection D of Section 2-206 of this title,
3 is a felony punishable by imprisonment in the custody of the
4 Department of Corrections for not more than two (2) years, or by a
5 fine not exceeding Five Thousand Dollars (\$5,000.00), or by both
6 such fine and imprisonment. A third or subsequent violation of this
7 section with respect to a Schedule I, except marijuana or a
8 substance included in subsection D of Section 2-206 of this title,
9 is a felony punishable by imprisonment in the custody of the
10 Department of Corrections for not more than five (5) years, or by a
11 fine not exceeding Ten Thousand Dollars (\$10,000.00), or by both
12 such fine and imprisonment. Any person who violates this section by
13 possessing or purchasing a Schedule I substance from any person, in,
14 on or within one thousand (1,000) feet of the real property
15 comprising a public or private elementary or secondary school,
16 public vocational school, public or private college or university or
17 other institution of higher education, or in the presence of any
18 child under twelve (12) years of age, shall be guilty of a felony
19 punishable by imprisonment in the custody of the Department of
20 Corrections for not less than one (1) year and by a fine of not less
21 than Two Thousand Five Hundred Dollars (\$2,500.00);

22 2. Any Schedule II substance, except marijuana or a substance
23 included in subsection D of Section 2-206 of this title, is guilty
24 of a misdemeanor punishable by imprisonment in the county jail for

1 not less than one (1) year, or by a fine not exceeding One Thousand
2 Dollars (\$1,000.00), or by both such fine and imprisonment. A
3 second violation of this section with respect to a Schedule II
4 substance, except marijuana or a substance included in subsection D
5 of Section 2-206 of this title, is a felony punishable by
6 imprisonment for not more than one (1) year, or by a fine not
7 exceeding Two Thousand Five Hundred Dollars (\$2,500.00), or by both
8 such fine and imprisonment. A third or subsequent violation of this
9 section with respect to a Schedule II substance, except marijuana or
10 a substance included in subsection D of Section 2-206 of this title,
11 is a felony punishable by imprisonment for not more than five (5)
12 years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00),
13 or by both such fine and imprisonment;

14 3. Any Schedule III, IV or V substance, marijuana, a substance
15 included in subsection D of Section 2-206 of this title or any
16 preparation excepted from the provisions of the Uniform Controlled
17 Dangerous Substances Act, is guilty of a misdemeanor punishable by
18 confinement for not more than one (1) year and by a fine not
19 exceeding One Thousand Dollars (\$1,000.00).

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

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

56-2-8260 GRS 01/08/18