ENGROSSED HOUSE AMENDMENT 1 TO ENGROSSED SENATE BILL NO. 108 By: Bergstrom and Standridge of the Senate 3 and 4 Ford of the House 5 6 7 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, 8 Initiative Petition No. 404, which relates to 9 prohibited acts and penalties; updating statutory reference; providing for misdemeanor upon conviction; 10 authorizing the court to make certain orders under certain circumstances; authorizing certain drug testing requirement; authorizing the court to impose 11 certain punishment; requiring certain felony; requiring certain felony change to a misdemeanor 12 under certain circumstances; prohibiting application 1.3 of certain provisions for possession of marijuana; and providing an effective date. 14 15 16 AMENDMENT NO. 1. Page 1, Lines 6 through 12 1/2, strike the title to read as follows: 17 18 "[Uniform Controlled Dangerous Substances Act -19 prohibited acts and penalties - misdemeanor -20 misdemeanor upon conviction - court orders - felony 2.1 - felony change to a misdemeanor - effective date 22 7 " 23 24

1	Passed the House of Representatives the 26th day of April, 2023.
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4	Presiding Officer of the House of
5	Representatives
6	Passed the Senate the day of, 2023.
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9	Presiding Officer of the Senate
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1 ENGROSSED SENATE BILL NO. 108 By: Bergstrom and Standridge of 2 the Senate 3 and Ford of the House 4 5 An Act relating to the Uniform Controlled Dangerous 6 Substances Act; amending 63 O.S. 2021, Section 2-402, as amended by Section 3, State Question No. 780, 7 Initiative Petition No. 404, which relates to prohibited acts and penalties; updating statutory 8 reference; providing for misdemeanor upon conviction; 9 authorizing the court to make certain orders under certain circumstances; authorizing certain drug testing requirement; authorizing the court to impose 10 certain punishment; requiring certain felony; requiring certain felony change to a misdemeanor 11 under certain circumstances; prohibiting application of certain provisions for possession of marijuana; 12 and providing an effective date. 13 14 15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA: SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-402, as 16 amended by Section 3, State Question No. 780, Initiative Petition 17 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

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- 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. $\underline{1}$. 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.
 - 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.

- 1 Any person who violates this section a fourth time 4. a. within ten (10) years shall, upon conviction, be 2 quilty of a felony punishable by a fine not exceeding 3 Five Thousand Dollars (\$5,000.00), imprisonment in the 4 5 custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or by 6 both such fine and imprisonment. 7 Upon a verdict or plea of guilty or upon a plea of b. nolo contendere, but before a judgment of guilt of a violation of this paragraph, the court may, without 10 11
 - 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 ordered by the court 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

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1	program, the court may impose punishment as provided
2	for in subparagraph a of this paragraph.
3	5. The provisions of this subsection shall not apply for
4	violations related to the possession of marijuana.
5	C. Any person convicted of any offense described in this
6	section shall, in addition to any fine imposed, pay a special
7	assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
8	deposited into the Trauma Care Assistance Revolving Fund created in
9	Section 1-2530.9 of this title.
10	SECTION 2. This act shall become effective November 1, 2023.
11	Passed the Senate the 22nd day of March, 2023.
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14	riestaing officer of the behave
15	Passed the House of Representatives the day of,
16	2023.
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