

An Act

ENROLLED SENATE
BILL NO. 793

By: Treat, Sharp, Pittman and
Jech of the Senate

and

Kannady and Cleveland of
the House

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 2011, Section 2-401, as amended by Section 4, Chapter 206, O.S.L. 2012 (63 O.S. Supp. 2017, Section 2-401), which relates to prohibited acts; modifying violations; modifying penalties; making certain requirements for convictions; amending 63 O.S. 2011, Section 2-415, as last amended by Section 1, Chapter 258, O.S.L. 2015 (63 O.S. Supp. 2017, Section 2-415), which relates to the application of fines and penalties; modifying inclusions; modifying penalties; making certain requirements for convictions; amending 63 O.S. 2011, Section 2-509, as amended by Section 2, Chapter 25, O.S.L. 2017 (63 O.S. Supp. 2017, Section 2-509), which relates to eradication and penalties; modifying penalties; and providing an effective date.

SUBJECT: Drug offense penalties

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-401, as amended by Section 4, Chapter 206, O.S.L. 2012 (63 O.S. Supp. 2017, Section 2-401), is amended to read as follows:

Section 2-401. A. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person:

1. To distribute, dispense, transport with intent to distribute or dispense, possess with intent to manufacture, distribute, or dispense, a controlled dangerous substance or to solicit the use of or use the services of a person less than eighteen (18) years of age to cultivate, distribute or dispense a controlled dangerous substance;

2. To create, distribute, transport with intent to distribute or dispense, or possess with intent to distribute, a counterfeit controlled dangerous substance; or

3. To distribute any imitation controlled substance as defined by Section 2-101 of this title, except when authorized by the Food and Drug Administration of the United States Department of Health and Human Services.

B. Any person who violates the provisions of this section with respect to:

1. A substance classified in Schedule I or II, except for marijuana which is a narcotic drug, lysergic acid diethylamide (LSD), gamma butyrolactone, gamma hydroxyvalerate, gamma valerolactone, 1,4 butanediol, or gamma-hydroxybutyric acid as defined in Sections 2-204 and 2-208 of this title, upon conviction, shall be guilty of transporting or possessing with an intent to distribute a controlled dangerous substance, a felony, and shall be sentenced to a term of imprisonment in the custody of the Department of Corrections for not less more than five (5) seven (7) years nor more than life and a fine of not more than One Hundred Thousand Dollars (\$100,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. Any sentence to the custody of the Department of Corrections shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation except when the conviction is for a first offense A second conviction for the violation of provisions of this paragraph is a felony punishable by a term of imprisonment in the custody of the Department of Corrections for not more than fourteen (14) years. A third or

subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by a term of imprisonment in the custody of the Department of Corrections for not more than twenty (20) years;

2. Any other controlled dangerous substance classified in Schedule ~~I, II, III, or IV~~, V or marijuana, upon conviction, shall be guilty of a felony and shall be sentenced to a term of imprisonment in the custody of the Department of Corrections for not ~~less more than two (2)~~ five (5) years ~~nor more than life~~ and a fine of not more than Twenty Thousand Dollars (\$20,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. ~~Any sentence to the custody of the Department of Corrections shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation except when the conviction is for a first offense~~ A second conviction for the violation of the provisions of this paragraph is a felony punishable by a term of imprisonment in the custody of the Department of Corrections for not more than ten (10) years. A third or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by a term of imprisonment in the custody of the Department of Corrections for not more than fifteen (15) years; or

3. ~~A substance classified in Schedule V, upon conviction, shall be guilty of a felony and shall be sentenced to a term of imprisonment for not more than five (5) years and a fine of not more than One Thousand Dollars (\$1,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment; or~~

4. ~~An imitation controlled substance as defined by Section 2-101 of this title, upon conviction, shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment in the county jail for a period of not more than one (1) year and a fine of not more than One Thousand Dollars (\$1,000.00). A person convicted of a second violation of the provisions of this paragraph shall be guilty of a felony and shall be sentenced to a term of imprisonment in the custody of the Department of Corrections for not more than ~~five (5)~~ two (2) years and a fine of not more than Five Thousand Dollars (\$5,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.~~

C. 1. Except when authorized by the Food and Drug Administration of the United States Department of Health and Human Services, it shall be unlawful for any person to manufacture, or cultivate, distribute, or possess with intent to distribute a controlled substance or synthetic controlled substance.

2. Any person convicted of violating the provisions of ~~this~~ paragraph 1 of this subsection with respect to distributing a controlled substance is guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed ~~life~~ ten (10) years and a fine of not more than Twenty-five Thousand Dollars (\$25,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

3. A second ~~or subsequent~~ conviction for the violation of the provisions of ~~this~~ paragraph 1 of this subsection with respect to distributing a controlled substance is a felony punishable ~~as a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes~~ by imprisonment in the custody of the Department of Corrections for a term not less than two (2) years nor more than twenty (20) years. A third or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by imprisonment in the custody of the Department of Corrections for a term not less than ten (10) years nor more than life.

4. ~~In addition, the violator shall be fined an amount not more than One Hundred Thousand Dollars (\$100,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment~~

Any person convicted of violating the provisions of paragraph 1 of this subsection with respect to manufacturing a controlled substance is guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed ten (10) years and a fine of not more than Twenty-five Thousand Dollars (\$25,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.

5. A second conviction for the violation of the provisions of paragraph 1 of this subsection with respect to manufacturing a controlled substance is a felony punishable by imprisonment in the custody of the Department of Corrections for a term not less than two (2) years nor more than twenty (20) years. A third or subsequent conviction for the violation of the provisions of this paragraph is a felony punishable by imprisonment in the custody of the Department of Corrections for a term not less than ten (10) years nor more than life.

~~D. 1. Any person convicted of a second or subsequent felony violation of the provisions of this section, except for paragraph 4 of subsection B of this section, shall be punished as a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes.~~

~~2. In addition, the violator shall be fined twice the fine otherwise authorized, which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment.~~

~~3. Convictions for second or subsequent violations of the provisions of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation~~

Convictions for violations of the provisions of this section shall be subject to the statutory provisions for suspended or deferred sentences, or probation as provided in Section 991a of Title 22 of the Oklahoma Statutes.

E. Any person who is at least eighteen (18) years of age and who violates the provisions of this section by using or soliciting the use of services of a person less than eighteen (18) years of age to distribute, dispense, transport with intent to distribute or dispense or cultivate a controlled dangerous substance or by distributing a controlled dangerous substance to a person under eighteen (18) years of age, is punishable by twice the fine and by twice the imprisonment otherwise authorized or in the presence of a person under twelve (12) years of age, is punishable by:

1. For a first violation of this section, a term of imprisonment in the custody of the Department of Corrections not less than two (2) years nor more than ten (10) years;

2. For a second violation of this section, a term of imprisonment in the custody of the Department of Corrections for not less than four (4) years nor more than twenty (20) years; or

3. For a third or subsequent violation of this section, a term of imprisonment in the custody of the Department of Corrections for not less than ten (10) years nor more than life.

F. Any person who violates any provision of this section by transporting with intent to distribute or dispense, distributing or possessing with intent to distribute a controlled dangerous substance to a person, or violation of subsection G of this section, in or on, or within two thousand (2,000) feet of the real property comprising a public or private elementary or secondary school, public vocational school, public or private college or university, or other institution of higher education, recreation center or public park, including state parks and recreation areas, public housing project, or child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes, shall be punished by:

1. For a first offense, a term of imprisonment in the custody of the Department of Corrections, or by the imposition of a fine or by both, not exceeding twice that authorized by the appropriate provision of this section and shall serve a minimum of fifty percent (50%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of the sentence; or

2. For a second or subsequent offense violation of this section, a term of imprisonment as provided for a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes. In addition, the violator shall serve eighty five percent (85%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of the sentence or eligibility for parole in the custody of the Department of Corrections, or by the imposition of a fine or by both, not exceeding thrice that authorized by the appropriate provision of this section. Convictions for second and subsequent violations of

the provisions of this section shall not be subject to statutory provisions of suspended sentences, deferred sentences or probation.

G. 1. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to manufacture or attempt to manufacture any controlled dangerous substance or possess any substance listed in Section 2-322 of this title or any substance containing any detectable amount of pseudoephedrine or its salts, optical isomers or salts of optical isomers, iodine or its salts, optical isomers or salts of optical isomers, hydriodic acid, sodium metal, lithium metal, anhydrous ammonia, phosphorus, or organic solvents with the intent to use that substance to manufacture a controlled dangerous substance.

2. Any person violating the provisions of this subsection with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance, or possessing any substance listed in this subsection or Section 2-322 of this title, upon conviction, is guilty of a felony and shall be punished by imprisonment for not less than seven (7) years nor more than life and by a fine of not less than Fifty Thousand Dollars (\$50,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. The possession of any amount of anhydrous ammonia in an unauthorized container shall be prima facie evidence of intent to use such substance to manufacture a controlled dangerous substance.

3. Any person violating the provisions of this subsection with respect to the unlawful manufacturing or attempting to unlawfully manufacture any controlled dangerous substance in the following amounts:

- a. one (1) kilogram or more of a mixture or substance containing a detectable amount of heroin,
- b. five (5) kilograms or more of a mixture or substance containing a detectable amount of:
 - (1) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed,

- (2) cocaine, its salts, optical and geometric isomers, and salts of isomers,
 - (3) ecgonine, its derivatives, their salts, isomers, and salts of isomers, or
 - (4) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in divisions (1) through (3) of this subparagraph,
- c. fifty (50) grams or more of a mixture or substance described in division (2) of subparagraph b of this paragraph which contains cocaine base,
 - d. one hundred (100) grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP),
 - e. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD),
 - f. four hundred (400) grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide,
 - g. one thousand (1,000) kilograms or more of a mixture or substance containing a detectable amount of marihuana or one thousand (1000) or more marihuana plants regardless of weight, or
 - h. fifty (50) grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers,

upon conviction, is guilty of aggravated manufacturing a controlled dangerous substance punishable by imprisonment for not less than twenty (20) years nor more than life and by a fine of not less than Fifty Thousand Dollars (\$50,000.00), which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. Any person convicted of a violation of the provisions of this paragraph shall be required to serve a minimum of eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional earned credits towards the completion of the sentence or eligible for parole.

4. Any sentence to the custody of the Department of Corrections for any violation of paragraph 3 of this subsection shall not be subject to statutory provisions for suspended sentences, deferred sentences, or probation. A person convicted of a second or subsequent violation of the provisions of paragraph 3 of this subsection shall be punished as a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes and shall be required to serve a minimum of eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional earned credits or eligibility for parole.

5. Any person who has been convicted of manufacturing or attempting to manufacture methamphetamine pursuant to the provisions of this subsection and who, after such conviction, purchases or attempts to purchase, receive or otherwise acquire any product, mixture, or preparation containing any detectable quantity of base pseudoephedrine or ephedrine shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term in the range of twice the minimum term provided for in paragraph 2 of this subsection.

H. Any person convicted of any offense described in the Uniform Controlled Dangerous Substances Act may, in addition to the fine imposed, be assessed an amount not to exceed ten percent (10%) of the fine imposed. Such assessment shall be paid into a revolving fund for enforcement of controlled dangerous substances created pursuant to Section 2-506 of this title.

I. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be

deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2522 of this title.

J. For purposes of this section, "public housing project" means any dwelling or accommodations operated as a state or federally subsidized multifamily housing project by any housing authority, nonprofit corporation or municipal developer or housing projects created pursuant to the Oklahoma Housing Authorities Act.

K. When a person is found guilty of a violation of the provisions of this section, the court shall order, in addition to any other penalty, the defendant to pay a one-hundred-dollar assessment to be deposited in the Drug Abuse Education and Treatment Revolving Fund created in Section 2-503.2 of this title, upon collection.

L. Any person convicted of a second or subsequent felony violation of the provisions of this section, except for paragraphs 1 and 2 of subsection B of this section, paragraphs 2, 3, 4 and 5 of subsection C of this section, paragraphs 1, 2, and 3 of subsection E of this section and paragraphs 1 and 2 of subsection F of this section, shall be punished as a habitual offender pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-415, as last amended by Section 1, Chapter 258, O.S.L. 2015 (63 O.S. Supp. 2017, 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. Marihuana;
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";
8. 3,4-Methylenedioxy methamphetamine, commonly known as "ecstasy" or MDMA;
9. Morphine;
10. Oxycodone;
11. Hydrocodone; or
12. Benzodiazepine.

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

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

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

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

the amount of controlled substance represented, regardless of the actual amount.

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

1. Marihuana:

- a. twenty-five (25) pounds or more of a mixture or substance containing a detectable amount of marihuana shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- b. one thousand (1,000) pounds or more of a mixture or substance containing a detectable amount of marihuana shall be deemed aggravated trafficking punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

2. Cocaine ~~or~~, coca leaves or cocaine base:

- a. twenty-eight (28) grams or more of a mixture or substance containing a detectable amount of cocaine ~~or~~, coca leaves or cocaine base shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00),
- b. three hundred (300) grams or more of a mixture or substance containing a detectable amount of cocaine ~~or~~, coca leaves or cocaine base shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00), or
- c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of cocaine ~~or~~, coca leaves or cocaine base shall be deemed aggravated trafficking punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00)

and not more than Five Hundred Thousand Dollars (\$500,000.00);

3. Heroin:

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

4. Amphetamine or methamphetamine:

- a. twenty (20) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than Two Hundred Thousand Dollars (\$200,000.00),
- b. two hundred (200) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00), or
- c. four hundred fifty (450) grams or more of a mixture or substance containing a detectable amount of amphetamine or methamphetamine shall be deemed aggravated trafficking punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

5. Lysergic acid diethylamide (LSD):

- a. one (1) gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD) shall be punishable by a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- b. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD) shall be punishable by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Two Hundred Fifty Thousand Dollars (\$250,000.00);

6. Phencyclidine (PCP):

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

7. Cocaine base:

- ~~a. five (5) grams or more of a mixture or substance described in paragraph 2 of this subsection which contains cocaine base shall be punishable by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or~~
- ~~b. fifty (50) grams or more of a mixture or substance described in paragraph 2 of this subsection which contains cocaine base shall be punishable by a fine of not less than One Hundred Thousand Dollars~~

~~(\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);~~

~~8.~~ Methylenedioxy methamphetamine:

- a. thirty (30) tablets or ten (10) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine shall be trafficking punishable by a term of imprisonment in the custody of the Department of Corrections not to exceed twenty (20) years and by a fine of not less than Twenty-five Thousand Dollars (\$25,000.00) and not more than One Hundred Thousand Dollars (\$100,000.00), or
- b. one hundred (100) tablets or thirty (30) grams of a mixture or substance containing a detectable amount of 3,4-Methylenedioxy methamphetamine shall be aggravated trafficking punishable by a term of imprisonment in the custody of the Department of Corrections of not less than two (2) years nor more than life by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

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

~~10.~~ 9. Oxycodone: Four hundred (400) grams or more of a mixture containing a detectable amount of oxycodone shall be trafficking punishable by a term of imprisonment in the custody of the Department of Corrections not to exceed twenty (20) years and by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00);

~~11.~~ 10. Hydrocodone: Three thousand seven hundred and fifty (3,750) grams or more of a mixture containing a detectable amount of hydrocodone shall be trafficking punishable by a term of imprisonment in the custody of the Department of Corrections not to

exceed twenty (20) years and by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00); and

~~12.~~ 11. Benzodiazepine: Five hundred (500) grams or more of a mixture containing a detectable amount of benzodiazepine shall be trafficking punishable by a term of imprisonment not to exceed twenty (20) years and by a fine of not less than One Hundred Thousand Dollars (\$100,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00).

D. Any person who violates the provisions of this section with respect to a ~~controlled substance specified in subsection A of this section~~ marihuana, cocaine, coca leaves, cocaine base, heroin, amphetamine or methamphetamine in a quantity specified in paragraphs 1, 2, 3 and 4 of subsection C of this section shall, in addition to any fines specified by this section, be punishable by a term of imprisonment as follows:

~~1. Not less than twice the term of imprisonment provided for in Section 2-401 of this title~~ For trafficking, a first violation of this section, a term of imprisonment in the custody of the Department of Corrections not to exceed twenty (20) years;

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

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

For trafficking, a second violation of this section, a term of imprisonment in the Department of Corrections of not less than four

(4) years nor more than life, for which the person shall serve fifty percent (50%) of the sentence before being eligible for parole consideration;

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

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

4. If the person is convicted of aggravated trafficking as provided in subparagraph b of paragraph 1 of subsection C of this section, subparagraph c of paragraph 2 of subsection C of this section or subparagraph c of paragraph 4 of subsection C of this section, ~~a mandatory minimum~~ sentence of imprisonment in the custody of the Department of Corrections as provided in paragraphs 1, 2 and 3 of subsection D of this section, ~~for a term of fifteen (15) years of which the person shall serve eighty-five percent (85%) of such mandatory sentence before being eligible for parole consideration or any earned credits.~~

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

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

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

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

SECTION 3. AMENDATORY 63 O.S. 2011, Section 2-509, as amended by Section 2, Chapter 25, O.S.L. 2017 (63 O.S. Supp. 2017, Section 2-509), is amended to read as follows:

Section 2-509. A. All species of plants from which controlled dangerous substances in Schedules I and II may be derived are hereby declared inimical to health and welfare of the public, and the intent of the Legislature is to control and eradicate these species of the plants in the State of Oklahoma.

B. It shall be unlawful for any person to cultivate or produce, or to knowingly permit the cultivation, production, or wild growing of any species of such plants, on any lands owned or controlled by such person, and it is hereby declared the duty of every such person to destroy all such plants found growing on lands owned or controlled by the person.

C. 1. Whenever any peace officer of the state shall receive information that any species of any such plants has been found growing on any private lands in the State of Oklahoma, the peace officer shall notify the sheriff and county commissioners of the county wherein such plants are found growing. Within five (5) days of receipt of such notice, the county commissioners shall notify the owner or person in possession of such lands that such plants have been found growing on the ~~said~~ the lands and that the same must be destroyed or eradicated within fifteen (15) days. When the fifteen (15) days have elapsed, the reporting peace officer shall cause an investigation to be made of the aforesaid lands, and if any such plants be found growing thereon, the county commissioners shall cause the same to be destroyed or eradicated by either cutting and burning or by applications of herbicides approved for such purpose and registered for use in Oklahoma by the Oklahoma Department of Agriculture, Food, and Forestry in accordance with Section 2-505 of this title.

2. Whenever any such plants are destroyed or eradicated by order of the county commissioners as provided herein, the cost of the same shall, if the work or labor be furnished by the county commissioners, be taxed against the lands whereon the work was performed, and shall be a lien upon such land in all manner and respects as a lien of judgment, if the owner is charged with a violation of subsection B of this section. If the violation of subsection B of this section is by a person other than the owner of the land, without the knowledge of the owner, the costs shall be paid by the initiating law enforcement agency.

D. Knowingly violating the provisions of subsection B or subsection H of this section is hereby declared, as to the owner, or person in possession of such lands, to be a felony and upon conviction punishable as such by a fine not to exceed Fifty Thousand Dollars (\$50,000.00) and imprisonment in the custody of the Department of Corrections for not ~~less~~ more than ~~two (2)~~ ten (10) years ~~nor more than life~~. The fine provided for in this subsection shall be in addition to other punishments provided by law and shall not be in lieu of other punishment. Any person convicted of a second ~~or subsequent~~ violation of subsection B or subsection H of this section is, upon conviction, punishable by a term of imprisonment ~~twice that otherwise authorized~~ in the custody of the Department of Corrections for not less than two (2) years nor more than twenty (20) years and by twice the fine otherwise authorized. ~~Any sentence shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation, except when the conviction is for a first offense~~ Any person convicted of a third or subsequent violation of subsection B or subsection H of this section is punishable by a term of imprisonment in the custody of the Department of Corrections for not less than ten (10) years nor more than life.

E. It shall be the duty of any peace officer of the State of Oklahoma who receives information of such plants growing in the State of Oklahoma, to make notice, in writing, to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the future destruction or eradication of the annual growth of such plants shall be supervised by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Any destruction or eradication of the annual growth of such plants supervised by the Bureau shall be by

cutting and burning the same or by destruction and eradication through applications of herbicides approved for such purpose and registered for use in Oklahoma by the Oklahoma Department of Agriculture, Food, and Forestry.

F. Any application of herbicides authorized by this section shall be made pursuant to the provisions of Section 2-505 of this title.

G. In lieu of the eradication procedures provided for in subsections B and C of this section, all species of plants from which controlled dangerous substances in Schedules I and II of the Uniform Controlled Dangerous Substances Act may be derived, may be disposed of pursuant to the provisions of subsection C of Section 2-505 of this title.

H. Except as authorized by the Uniform Controlled Dangerous Substances Act, it shall be unlawful for any person to manufacture or attempt to manufacture any controlled dangerous substance by cooking, burning, or extracting and converting or attempting to extract and convert marihuana or marihuana oil into hashish, hashish oil or hashish powder.

SECTION 4. This act shall become effective November 1, 2018.

Passed the Senate the 17th day of April, 2018.

Presiding Officer of the Senate

Passed the House of Representatives the 24th day of April, 2018.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____