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STATE OF OKLAHOMA

1 1st Session of the 53rd Legislature (2011)

2 HOUSE BILL 1801 By: Tibbs

3 AS INTRODUCED

4 An Act relating to public health and safety;  
5 providing short title; creating the Oklahoma  
6 Sentencing for Drug Crimes Act; stating manner in  
7 which persons convicted of drug offenses shall be punished;  
8 providing policy statement; providing definitions; declaring  
9 purposes of sentencing schedule; establishing classification  
10 system for felony criminal drug offenses; defining schedules;  
11 providing punishments; providing for the enhancement of drug  
12 crimes; providing list of offense enhancers; providing drug crime  
13 and punishment schedule chart; amending 63 O.S. 2001, Section 2-  
14 312.1, which relates to the Anti-Drug Diversion Act; classifying  
15 felonies and modifying penalties; amending 63 O.S. 2001, Sections  
16 2-328, Section 1, Chapter 288, O.S.L. 2002, as last amended by  
17 Section 4, Chapter 59, O.S.L. 2004 and Section 2, Chapter 288,  
18 O.S.L. 2002, as last amended by Section 10, Chapter 359, O.S.L.  
19 2008 (63 O.S. Supp. 2010, Sections 2-332 and 2-333), which relate  
20 to the Precursor Substances Act; classifying felonies and  
21 modifying penalties; amending 63 O.S. 2001, Sections 2-401, as  
22 last amended by Section 4, Chapter 283, O.S.L. 2005, 2-402, as  
23 last amended by Section 1, Chapter 306, O.S.L. 2009, 2-404, as  
24 amended by Section 4, Chapter 396, O.S.L. 2004, 2-405, as last

1 amended by Section 5, Chapter 396, O.S.L. 2005, 2-406, as amended  
2 by Section 6, Chapter 396, O.S.L. 2004 and 2-407, as amended by  
3 Section 7, Chapter 396, O.S.L. 2004 (63 O.S. Supp. 2010, Sections  
4 2-401, 2-402, 2-404, 2-405, 2-406 and 2-407), which relate to  
5 penalties and offenses of the Uniform Controlled Dangerous  
6 Substances Act; classifying felonies and modifying penalties;  
7 amending 63 O.S. 2001, Section 2-415, as last amended by Section  
8 5, Chapter 199, O.S.L. 2007 (63 O.S. Supp. 2010, Section 2-415),  
9 which relates to the Trafficking in Illegal Drugs Act; classifying  
10 felonies and modifying penalties; amending 63 O.S. 2001, Section  
11 2-503.1, which relates to enforcement and administration of the  
12 Drug Dealer Liability Act; classifying felonies and modifying  
13 penalties; amending 63 O.S. 2001, Section 2-509, which relates to  
14 the Drug Money Laundering and Wire Transmitter Act; classifying  
15 felonies and modifying penalties; amending 68 O.S. 2001, Section  
16 450.8, which relates to the Controlled Dangerous Substances Tax;  
17 classifying felony and modifying penalty; repealing 63 O.S. 2001,  
18 Section 2-419.1, which relates to employing minors in trafficking  
19 drugs; providing for codification; and providing an effective  
20 date.

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

22 SECTION 1. NEW LAW A new section of law to be  
23 codified in the Oklahoma Statutes as Section 2-801 of Title 63,  
24 unless there is created a duplication in numbering, reads as  
25 follows:

26 This act shall be known and may be cited as the "Oklahoma  
27 Sentencing for Drug Crimes Act".

1           SECTION 2.       NEW LAW       A new section of law to be  
2       codified in the Oklahoma Statutes as Section 2-802 of Title 63,  
3       unless there is created a duplication in numbering, reads as  
4       follows:

5           A. A person committing a felony offense in violation of the  
6       Uniform Controlled Dangerous Substances Act on or after July 1,  
7       2011, convicted of the offense and sentenced by a court, shall be  
8       sentenced in accordance with the ranges of punishments established  
9       by the Drug Crimes Schedule provided for in Section 8 of this act.

10          B. No felony offense in violation of the Uniform Controlled  
11       Dangerous Substances Act committed on or after July 1, 2011, shall  
12       be punishable as a habitual offender pursuant to Section 51.1 of  
13       Title 21 of the Oklahoma Statutes. Punishments for such offenses  
14       shall be established by the Drug Crimes Schedule provided for in  
15       Section 8 of this act.

16          C. This section shall not affect the power of the court to  
17       suspend or defer a sentence, if authorized by law.

18       SECTION 3.       NEW LAW       A new section of law to be  
19       codified in the Oklahoma Statutes as Section 2-803 of Title 63,  
20       unless there is created a duplication in numbering, reads as  
21       follows:

22          A. The policy of this state is to sentence persons  
23       convicted of drug felonies pursuant to the Drug Crimes Schedule  
24       provided for in Section 8 of this act.

25          B. Beginning July 1, 2011, drug felonies shall be  
26       classified pursuant to Section 6 of this act, and shall be  
27       punished as provided by the Drug Crimes Schedule provided for in

1 Section 8 of this act.

2 SECTION 4. NEW LAW A new section of law to be  
3 codified in the Oklahoma Statutes as Section 2-804 of Title 63,  
4 unless there is created a duplication in numbering, reads as  
5 follows:

6 The following definitions apply to the Oklahoma Sentencing  
7 for Drug Crimes Act:

8 1. "Drug Crimes Schedule" means the sentencing schedule for  
9 all felony drug offenses as provided by the Oklahoma Statutes;

10 2. "Range of punishment" means the possible punishment for  
11 the commission of a criminal offense. The range of punishment may  
12 include a term of confinement, a fine, a term of probation,  
13 removal from office, and other conditions authorized by the  
14 Oklahoma Statutes;

15 3. "Schedule" means the classification of a criminal  
16 offense as provided in Section 6 of this act;

17 4. "Sentence" means the total obligation of the offender  
18 for the commission of a criminal offense as determined by the  
19 sentencing court, including any term of confinement in a prison or  
20 jail, any term of community punishment, any term of supervision,  
21 any fine, and any terms or conditions as authorized by Section  
22 991a of Title 22 of the Oklahoma Statutes; and

23 5. "Sentencing severity level" or "level" means the level  
24 of sentencing pursuant to the drug schedule.

25 SECTION 5. NEW LAW A new section of law to be  
26 codified in the Oklahoma Statutes as Section 2-805 of Title 63,

27 unless there is created a duplication in numbering, reads as

4

1 follows:

2 A. On and after July 1, 2011, felony offenses in violation  
3 of the Uniform Controlled Dangerous Substances Act shall be  
4 punished as provided by the Drug Crimes Schedule and in accordance  
5 with the application of any sentencing enhancers authorized by the  
6 Oklahoma Sentencing for Drug Crimes Act.

7 B. For purposes of sentencing, the sentencing schedule  
8 entitled "Drug Crimes Schedule" shall be applied in cases  
9 involving controlled dangerous substance offenses that are  
10 classified as Schedule A, Schedule B, Schedule C, Schedule D,  
11 Schedule E or Schedule F crimes committed on or after July 1,  
12 2011.

13 C. The ranges of punishment for each level in the schedules  
14 are established as provided in Section 8 of this act.

15 D. The sentencing schedule is a crime severity and criminal  
16 history classification tool. The sentencing schedule determines  
17 crime severity of the current offense of conviction according to  
18 sentencing level. The sentencing level classifies the severity of  
19 the circumstances of the offense and the criminal history of the  
20 offender.

21 E. The sentencing schedule defines the possible terms of  
22 confinement.

23 F. The sentencing schedule does not establish fines or  
24 other conditions of a sentence. Fines for the commission of a  
25 criminal offense shall be as provided by law and conditions of  
26 sentence dispositions are provided for by Section 991a of Title 22

27 of the Oklahoma Statutes.

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1 SECTION 6. NEW LAW A new section of law to be  
2 codified in the Oklahoma Statutes as Section 2-806 of Title 63,  
3 unless there is created a duplication in numbering, reads as  
4 follows:

5 A. There is hereby established a classification system for  
6 all felony criminal offenses provided for in the Uniform  
7 Controlled Dangerous Substances Act that places the offenses into  
8 schedules on the basis of the severity of the offense and other  
9 factors of the commission of the crime. All felonies provided for  
10 by the Uniform Controlled Dangerous Substances Act shall be  
11 classified in the following schedules:

12 1. "Schedule A" means an offense of aggravated  
13 manufacturing or attempting to manufacture a controlled dangerous  
14 substance, or a synthetic of the controlled dangerous substance in  
15 a statutorily defined amount; or an offense of aggravated  
16 trafficking in a specified Schedule I or Schedule II controlled  
17 dangerous substance, or a synthetic of the controlled dangerous  
18 substance, including marihuana, cocaine or coca leaves, heroin,  
19 amphetamine or methamphetamine, lysergic acid diethylamide,  
20 phencyclidine, methylenedioxy methamphetamine or cocaine base in a  
21 statutorily defined amount;

22 2. "Schedule B" means an offense of manufacturing or  
23 attempting to manufacture a controlled dangerous substance, or a  
24 synthetic of the controlled dangerous substance;

25 3. "Schedule C" means an offense of trafficking in a

26 specified Schedule I or Schedule II controlled dangerous  
27 substance, or a synthetic of the controlled dangerous substance,

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1 including marihuana, cocaine or coca leaves, heroin, amphetamine  
2 or methamphetamine, lysergic acid diethylamide, phencyclidine,  
3 methylenedioxy methamphetamine or cocaine base in a statutorily  
4 defined amount;

5 4. "Schedule D" means an offense of distributing,  
6 dispensing, transporting with the intent to distribute or  
7 dispense, or possessing with the intent to distribute a controlled  
8 dangerous substance or a synthetic of the controlled dangerous  
9 substance, a counterfeit controlled dangerous substance, or  
10 imitation controlled substance;

11 5. "Schedule E" means any offense which constitutes a  
12 felony violation of the Uniform Controlled Dangerous Substances  
13 Act committed by a practitioner or a registrant; and

14 6. "Schedule F" means an offense of knowingly and  
15 intentionally possessing a controlled dangerous substance or a  
16 synthetic of the controlled dangerous substance, which is a  
17 Schedule I or Schedule II controlled substance, except marihuana,  
18 and those substances listed in subsection D of Section 2-206 of  
19 Title 63 of the Oklahoma Statutes or other offenses which are a  
20 felony violation of the Uniform Controlled Dangerous Substances  
21 Act or other drug laws of the State of Oklahoma.

22 B. Punishment for each schedule of offenses provided for in  
23 subsection A of this section shall be as provided in the Drug  
24 Crimes Schedule.

25 1. SCHEDULE A - Group A:

- 26 a. aggravated manufacturing of a controlled substance,
- 27 b. trafficking cocaine - three hundred (300) grams or

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1 more,

- 2 c. trafficking heroin - twenty-eight (28) grams or
- 3 more,
- 4 d. trafficking lysergic acid diethylamide (LSD) - more
- 5 than one thousand (1,000) dosage units, and
- 6 e. trafficking cocaine base - fifty (50) grams or more.

7 2. SCHEDULE A - Group B:

- 8 a. trafficking marihuana - one thousand (1,000) pounds
- 9 or more,
- 10 b. trafficking amphetamine or methamphetamine - two
- 11 hundred (200) grams or more,
- 12 c. trafficking phencyclidine - eight (8) ounces or
- 13 more, and
- 14 d. trafficking methylenedioxy methamphetamine - one
- 15 hundred (100) tablets or thirty (30) grams of a mixture containing
- 16 the substance.

17 3. SCHEDULE B:

- 18 a. manufacturing a controlled dangerous substance,
- 19 attempting to manufacture a controlled dangerous substance, and
- 20 b. knowingly possessing more than nine (9) grams of
- 21 precursor substances used to manufacture methamphetamine.

22 4. SCHEDULE C - Group A:

- 23 a. trafficking cocaine - twenty-eight (28) grams to two
- 24 hundred ninety-nine (299) grams,

- 25           b.           trafficking heroin - ten (10) grams to twenty-seven  
26           (27) grams,  
27           c.           trafficking lysergic acid diethylamide - fifty (50)

8

1           to one thousand (1,000) dosage units, and

- 2           d.           trafficking cocaine base - five (5) to forty-nine  
3           (49) grams.

4           5.           SCHEDULE C - Group B:

- 5           a.           trafficking marihuana - twenty-five (25) to nine  
6           hundred ninety-nine (999) pounds,  
7           b.           trafficking amphetamine or methamphetamine - twenty  
8           (20) grams to one hundred ninety-nine (199) grams,  
9           c.           trafficking phencyclidine - one (1) ounce to seven  
10           and ninety-nine one-hundredths (7.99) ounces, and

- 11           d.           trafficking methylenedioxy methamphetamine (MDMA) -  
12           thirty (30) tablets or ten (10) grams of a mixture containing the  
13           substance.

14           6.           SCHEDULE D - Group A: Distribution and possession with  
15           intent to distribute substances classified in Schedule I or II  
16           which are narcotic drugs or lysergic acid diethylamide.

17           7.           SCHEDULE D - Group B:

- 18           a.           distribution and possession with intent to  
19           distribute any other substance classified in Schedule I, II, III,  
20           or IV which is not listed in paragraphs 1 and 2 of subsection B of  
21           Section 2-401 of Title 63 of the Oklahoma Statutes, and

- 22           b.           manufacture, distribute, possession with intent to  
23           distribute a synthetic controlled dangerous substance.

24           8.           SCHEDULE D - Group C:

- 25           a.           possession with intent to distribute any substance  
26 listed in Schedule V of the Controlled Dangerous Substances Act,  
27           b.           possession with intent to distribute an imitation

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- 1 controlled dangerous substance,  
2           c.           cultivation,  
3           d.           drug proceeds, and  
4           e.           possession with intent to distribute by a person  
5 over the age of eighteen (18) years or delivering paraphernalia to  
6 a person under the age of eighteen (18).

7           9. SCHEDULE E:

- 8           a.           illegal prescription of anabolic steroids or human  
9 growth hormones,  
10           b.           violating Precursor Substances Act, furnishing a  
11 precursor substance with knowledge or intent that recipient will  
12 use the substance unlawfully,  
13           c.           violating Precursor Substances Act, second or  
14 subsequent offense, knowingly making a false record or report by a  
15 person required to have permit,  
16           d.           violating Precursor Substances Act, by purchasing,  
17 obtaining or possessing without obtaining a permit; selling or  
18 transferring to a person without a permit,  
19           e.           violating Precursor Substances Act, by selling,  
20 transferring, distributing or dispensing any product containing  
21 ephedrine or pseudoephedrine if person knows of a planned use to  
22 manufacture methamphetamine,  
23           f.           registrant crimes,

24 g. dealers manufacturing, distributing, producing, or  
25 possessing controlled dangerous substances without affixing the  
26 appropriate tax stamp, and

27 h. obtaining a controlled dangerous substance by fraud

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1 or forgery.

2 10. SCHEDULE F:

3 a. possession of a Schedule I or II substance except  
4 marihuana and the substances included in subsection D of Section  
5 2-206 of Title 63 of the Oklahoma Statutes,

6 b. possession of a Schedule III, IV, V substance,  
7 marihuana or a substance included in subsection D of Section 2-206  
8 of the Oklahoma Statutes, second or subsequent conviction, and

9 c. maintaining a place where a controlled dangerous  
10 substance is kept.

11 SECTION 7. NEW LAW A new section of law to be  
12 codified in the Oklahoma Statutes as Section 2-807 of Title 63,  
13 unless there is created a duplication in numbering, reads as  
14 follows:

15 A. The sentencing ranges in the drug crimes schedule shall  
16 be enhanced in accordance with the following provisions based on  
17 the circumstances of the commission of the offense. The following  
18 shall be offense enhancers:

19 1. If the offender committed a Schedule A, B, C or D  
20 offense within two thousand (2,000) feet of the real property  
21 comprising a public or private elementary or secondary school,  
22 public or private college or university, or other institution of  
23 higher education, recreation center or public park, including

24 state parks and recreation areas, or public housing project, or  
25 child care facility, or if the offender is at least eighteen (18)  
26 years of age and uses or solicits the services of a person less  
27 than eighteen (18) years of age to distribute, dispense, transport

11

1 with intent to distribute or dispense or cultivate a controlled  
2 dangerous substance or by distributing a controlled dangerous  
3 substance to a person under eighteen (18) years of age, then the  
4 sentencing range shall be increased one level on the Drug Crimes  
5 Schedule; or

6 2. If the offender committed a Schedule F offense of  
7 possessing or purchasing a controlled dangerous substance, or a  
8 synthetic of the controlled dangerous substance from any person,  
9 in or on, or within one thousand (1,000) feet of the real property  
10 comprising a public or private elementary or secondary school,  
11 public vocational school, public or private college or university,  
12 or other institution of higher education, recreation center or  
13 public park, including state parks and recreation areas, or in the  
14 presence of any child under twelve (12) years of age, the  
15 sentencing range shall be increased one level on the Drug Crimes  
16 Schedule.

17 B. Every person who, having been previously convicted of a  
18 felony offense and sentenced to probation or incarceration in a  
19 state or federal penitentiary, commits any Schedule A, B, or C  
20 crime under the Drug Crimes Schedule after such conviction shall  
21 be punishable, upon conviction of a subsequent committed crime, as  
22 follows:

23           1. If the offender has previously served one or two  
24 separate time periods for separate felony probations, the offender  
25 shall be punished at level two of the Drug Crimes Schedule;

26           2. If the offender has previously served three or more  
27 separate time periods for separate felony probations or one prior

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1 felony incarceration in a state or federal correctional facility,  
2 the offender shall be punished at level three of the Drug Crimes  
3 Schedule;

4           3. If the offender has previously served two or more  
5 separate prior felony incarcerations in a state or federal  
6 correctional facility, the offender shall be punished at level  
7 four of the Drug Crimes Schedule;

8           4. If the offender has previously served three or more  
9 separate prior felony incarcerations in a state or federal  
10 correctional facility, the offender shall be punished at level  
11 five of the Drug Crimes Schedule; and

12           5. Any offender serving a level-five sentence for a  
13 Schedule B or C crime must serve at least sixty percent (60%) of  
14 the sentence before being released from custody.

15           C. Every person who, having been previously convicted of a  
16 felony offense and sentenced to probation or incarceration in a  
17 state or federal penitentiary, commits any Schedule D, E, or F  
18 crime under the Drug Crimes Schedule after such conviction shall  
19 be punishable upon conviction of a subsequently committed crime,  
20 as follows:

21           1. If the offender has previously served one or two  
22 separate time periods for separate felony probations or one prior

23 incarceration in a state or federal correctional facility, the  
24 offender shall be punished at level two of the Drug Crimes  
25 Schedule;

26 2. If the offender has previously served three or more  
27 separate time periods for separate felony probations or two prior

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1 incarcerations in a state or federal correctional facility, the  
2 offender shall be punished at level three of the Drug Crimes  
3 Schedule;

4 3. If the offender has previously served three or more  
5 separate prior incarcerations in a state or federal correctional  
6 facility, the offender shall be punished at level four of the Drug  
7 Crimes Schedule;

8 4. If the offender has previously served four or more  
9 separate prior incarcerations in a state or federal correctional  
10 facility, the offender shall be punished at level five of the Drug  
11 Crimes Schedule;

12 5. Any offender serving a level-five sentence for a  
13 Schedule D crime must serve at least sixty percent (60%) of the  
14 sentence before being released from custody; and

15 6. Any offender serving a level-five sentence for a  
16 Schedule E or F crime must serve at least sixty percent (60%) of  
17 the sentence before being released from custody unless the  
18 individual, while incarcerated, satisfactorily completes a  
19 certified drug treatment program.

20 D. No person shall be sentenced with a prior criminal  
21 justice status enhancer when a period of ten (10) years has

22 elapsed between the date of full completion of the sentence for  
23 the prior conviction and the date of the commission of the offense  
24 sought to be enhanced.

25 SECTION 8. NEW LAW A new section of law to be  
26 codified in the Oklahoma Statutes as Section 2-808 of Title 63,  
27 unless there is created a duplication in numbering, reads as

14

1 follows:

2 DRUG CRIMES SCHEDULE:

3 PUNISHMENT, IMPRISONMENT AND ENHANCEMENT SCHEDULE

4 SCHEDULE A CRIME

5 Aggravated Drug Manufacturing and Aggravated Drug

6 Trafficking

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	
<u>Level 4</u>	<u>Level 5</u>			
<u>Category</u>	<u>Months</u>	<u>Months</u>	<u>Months</u>	
<u>Months</u>	<u>Months</u>	<u>Months</u>	<u>Months</u>	
Group A	24-120	36-180	36-240	48-
360	60-480			
	(85%)	(85%)	(85%)	
(85%)	(85%)			
Group B	24-84	26-120	36-180	
48-240	60-360			
	(85%)	(85%)	(85%)	
(85%)	(85%)			

19 SCHEDULE B CRIME

20 Drug Manufacturing

21 Level 1 Level 2 Level 3

22	<u>Level 4</u>	<u>Level 5</u>			
23			<u>Months</u>	<u>Months</u>	<u>Months</u>
24	<u>Months</u>	<u>Months</u>			
25			24-84	24-120	36-180
26	48-240	60-360			
27	<u>SCHEDULE C CRIME</u>				

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1	<u>DRUG TRAFFICKING</u>				
2		<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	
3	<u>Level 4</u>	<u>Level 5</u>			
4	<u>Category</u>	<u>Months</u>	<u>Months</u>		
5	<u>Months</u>	<u>Months</u>	<u>Months</u>		
6	Group A	24-84	24-120	36-216	36-
7	240	48-360			
8	Group B	24-84	24-120	36-144	
9	36-180	48-240			
10	<u>SCHEDULE D CRIME</u>				
11	<u>Drug Distribution</u>				
12		<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	
13	<u>Level 4</u>	<u>Level 5</u>			
14	<u>Category</u>	<u>Months</u>	<u>Months</u>		
15	<u>Months</u>	<u>Months</u>	<u>Months</u>		
16	Group A	12-84	24-96	24-120	36-
17	180	48-240			
18	Group B	12-60	24-84	24-120	
19	36-180	48-240			
20	Group C	12-36	24-60	24-84	

21 36-96 64-120

22 SCHEDULE E CRIME

23 Registrant Crimes

24		<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
25	<u>Level 4</u>	<u>Level 5</u>		
26		<u>Months</u>	<u>Months</u>	<u>Months</u>
27	<u>Months</u>	<u>Months</u>		

16

1 0-36 12-48 24-60 24-

2 84 36-120

3 SCHEDULE F CRIME

4 Drug Possession

5		<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
6	<u>Level 4</u>	<u>Level 5</u>		
7		<u>Months</u>	<u>Months</u>	<u>Months</u>
8	<u>Months</u>	<u>Months</u>		

9 0-36 12-48 24-60 24-

10 96 36-120

11 SECTION 9. AMENDATORY 63 O.S. 2001, Section 2-312.1,  
12 is amended to read as follows:

13 Section 2-312.1 A. A licensed practitioner as defined in  
14 Section 355 of Title 59 of the Oklahoma Statutes shall not  
15 prescribe, dispense, deliver, or administer an anabolic steroid or  
16 human growth hormone or cause an anabolic steroid or human growth  
17 hormone to be administered under the direction or supervision of  
18 the practitioner except for a valid medical purpose and in the  
19 course of a professional practice. A valid medical purpose for  
20 the use of anabolic steroids or human growth hormones shall not

21 include bodybuilding, muscle enhancement or increasing muscle bulk  
22 or strength of a person who is in good health. This section shall  
23 not prohibit the use of anabolic steroids for the treatment of  
24 livestock or domestic animals in accordance with state or federal  
25 law.

26 B. The prescribing, dispensing, delivering or administering  
27 of an anabolic steroid by a licensed practitioner in violation of

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1 the provisions of subsection A of this section shall be grounds  
2 for revocation or nonrenewal of the license of such licensed  
3 practitioner to practice in this state. In addition, any licensed  
4 practitioner prescribing, dispensing, delivering or administering  
5 an anabolic steroid in violation of the provisions of subsection A  
6 of this section, upon conviction thereof shall be guilty of a  
7 Schedule E felony as defined by the Oklahoma Sentencing for  
8 Drug Crimes Act punishable by imprisonment in the [~~State~~  
9 ~~Penitentiary~~] custody of the Department of Corrections as  
10 specified in the Drug Crimes Schedule of said act for a term of  
11 not more than three (3) years, or by a fine not to exceed Ten  
12 Thousand Dollars (\$10,000.00), or by both such imprisonment and  
13 fine.

14 SECTION 10. AMENDATORY 63 O.S. 2001, Section 2-328,  
15 is amended to read as follows:

16 Section 2-328. A. A person or business who manufactures,  
17 sells, transfers, furnishes, or receives a precursor substance  
18 defined in Section 2-322 of this title commits an offense if the  
19 person:

20           1. Does not comply with the requirements of Section 2-322,  
21 2-323 or 2-326 of this title; or

22           2. Knowingly makes a false statement in a report or record  
23 required by Section 2-323 or 2-326 of this title.

24           B. Except as provided by subsection C of this section, an  
25 offense under subsection A of this section is a misdemeanor and  
26 punishable by imprisonment in the county jail for a term not to  
27 exceed one year or by a fine not to exceed Ten Thousand Dollars

18

1           (\$10,000.00).

2           C. A person who manufactures, sells, transfers, or  
3 otherwise furnishes a precursor substance defined in Section 2-322  
4 of this title commits an offense if the person manufactures,  
5 sells, transfers, or furnishes the substance with the knowledge or  
6 intent that the recipient shall use the substance to unlawfully  
7 manufacture a controlled substance or a controlled substance  
8 analog.

9           D. A second or subsequent violation of subsection A of this  
10 section shall be a Schedule E felony as defined by the Oklahoma  
11 Sentencing for Drug Crimes Act punishable by imprisonment in the  
12 ~~[State Penitentiary for a term of not more than ten (10) years]~~  
13 custody of the Department of Corrections as specified in the Drug  
14 Crimes Schedule of said act, or by a fine not to exceed Twenty-  
15 five Thousand Dollars (\$25,000.00), or by both such fine and  
16 imprisonment. ~~[Any imprisonment imposed shall not run concurrent~~  
17 ~~with other imprisonment sentences for violations of other~~  
18 ~~provisions of Title 63 of the Oklahoma Statutes.]~~

19           E. A person who is required by Section 2-322 or 2-324 of

20 this title to have a permit for precursor substances commits an  
21 offense if the person:

22 1. Purchases, obtains, or possesses a precursor substance  
23 without having first obtained a permit;

24 2. Has in his possession or immediate control a precursor  
25 substance with no attached permit;

26 3. Knowingly makes a false statement in an application or  
27 report required by Section 2-324 or 2-326 of this title; or

19

1 4. Manufacturers, sells, transfers, or otherwise furnishes  
2 any person or business a precursor substance defined in Section 2-  
3 322 of this title, who does not have a permit.

4 F. An offense under subsection C or E of this section is a  
5 Schedule E felony as defined by the Oklahoma Sentencing for  
6 Drug Crimes Act punishable by imprisonment in the [~~State~~  
7 ~~Penitentiary for a term of not more than ten (10) years]~~ custody  
8 of the Department of Corrections as specified in the Drug Crimes  
9 Schedule of said act, or by a fine not to exceed Twenty-five  
10 Thousand Dollars (\$25,000.00), or by both such fine and  
11 imprisonment. [~~Any imprisonment imposed shall not run concurrent~~  
12 ~~with other imprisonment sentences for violations of other~~  
13 ~~provisions of Title 63 of the Oklahoma Statutes.~~]

14 SECTION 11. AMENDATORY Section 1, Chapter 288,  
15 O.S.L. 2002, as last amended by Section 4, Chapter 59, O.S.L. 2004  
16 (63 O.S. Supp. 2010, Section 2-332), is amended to read as  
17 follows:

18 Section 2-332. A. It shall be unlawful for a person to

19 knowingly and unlawfully possess a drug product containing  
20 ephedrine, pseudoephedrine or phenylpropanolamine, or their salts,  
21 isomers or salts of isomers with intent to use the product as a  
22 precursor to manufacture methamphetamine or another controlled  
23 substance.

24 B. Except as provided in this subsection, possession of a  
25 drug product containing more than nine (9) grams of ephedrine,  
26 pseudoephedrine or phenylpropanolamine, or their salts, isomers or  
27 salts of isomers shall constitute a rebuttable presumption of the

20

1 intent to use the product as a precursor to methamphetamine or  
2 another controlled substance. The rebuttable presumption  
3 established by this subsection shall not apply to the following  
4 persons who are lawfully possessing drug products in the course of  
5 legitimate business:

- 6 1. A retail distributor of drug products or wholesaler;
- 7 2. A wholesale drug distributor, or its agents, licensed by  
8 the Board of Pharmacy;
- 9 3. A manufacturer of drug products, or its agents, licensed  
10 by the Board of Pharmacy;
- 11 4. A pharmacist licensed by the Board of Pharmacy; and
- 12 5. A licensed healthcare professional possessing the drug  
13 products in the course of carrying out his profession.

14 C. A violation of this section shall be a Schedule B  
15 felony as defined by the Oklahoma Sentencing for Drug Crimes Act  
16 punishable as [~~provided for in subsection C of Section 2-401 of~~  
17 ~~this title~~] specified in the Drug Crimes Schedule of said act.

18 D. Any wholesaler, manufacturer, or distributor of drug

19 products containing pseudoephedrine or phenylpropanolamine, or  
20 their salts, isomers, or salts of isomers shall obtain a  
21 registration annually from the Oklahoma State Bureau of Narcotics  
22 and Dangerous Drugs Control. Any such wholesaler, manufacturer,  
23 or distributor shall keep complete records of all transactions  
24 involving such drug products including the names of all parties  
25 involved in the transaction and amount of the drug products  
26 involved. The records shall be kept readily retrievable and  
27 separate from all other invoices or records of transactions not

21

1 involving such drug products, and shall be maintained for not less  
2 than three (3) years.

3 E. As used in this section:

4 1. "Manufacturer" means any person within this state who  
5 produces, compounds, packages, or in any manner initially prepares  
6 for sale or use any drug product described in subsection D of this  
7 section, or any such person in another state if they cause the  
8 products to be compounded, packaged, or transported into this  
9 state;

10 2. "Wholesaler" means any person within this state or  
11 another state, other than a manufacturer, who sells, transfers, or  
12 in any manner furnishes a drug product described in subsection A  
13 of this section to any other person in this state for the purpose  
14 of being resold;

15 3. "Distributor" means any person within this state or  
16 another state, other than a manufacturer or wholesaler, who sells,  
17 delivers, transfers, or in any manner furnishes a drug product

18 described in subsection A of this section to any person who is not  
19 the ultimate user or consumer of the product; and

20 4. "Readily retrievable" means available for inspection  
21 without prior notice at the registration address if that address  
22 is within the State of Oklahoma. If the registration address is  
23 in a state other than Oklahoma, it means records must be furnished  
24 within three (3) working days by courier, facsimile, mail or  
25 electronic mail.

26 F. Any substances possessed without a registration as  
27 provided in subsection D of this section shall be subject to

22

1 forfeiture upon conviction for a violation of this section.

2 G. In addition to any administrative penalties provided by  
3 law, any violation of this section shall be a misdemeanor,  
4 punishable upon conviction by a fine only in an amount not more  
5 than Ten Thousand Dollars (\$10,000.00).

6 SECTION 12. AMENDATORY Section 2, Chapter 288,  
7 O.S.L. 2002, as last amended by Section 10, Chapter 359, O.S.L.  
8 2008 (63 O.S. Supp. 2010, Section 2-333), is amended to read as  
9 follows:

10 Section 2-333. A. It shall be unlawful for any person to  
11 knowingly sell, transfer, distribute, or dispense any product  
12 containing ephedrine, pseudoephedrine or phenylpropanolamine, or  
13 their salts, isomers or salts of isomers if the person knows that  
14 the purchaser will use the product as a precursor to manufacture  
15 methamphetamine or another controlled illegal substance or if the  
16 person sells, transfers, distributes or dispenses the product with  
17 reckless disregard as to how the product will be used.

18           B. A violation of this section shall be a Schedule D Group  
19 B felony as defined by the Oklahoma Sentencing for Drug Crimes  
20 Act punishable by imprisonment in the [~~State Penitentiary for a~~  
21 ~~term of not more than ten (10) years~~] custody of the Department  
22 of Corrections as specified in the Drug Crimes Schedule of said  
23 act.

24           C. Any person who sells, transfers, distributes, dispenses,  
25 or in any manner furnishes any product containing pseudoephedrine  
26 or phenylpropanolamine, or their salts, isomers, or salts of  
27 isomers in a negligent manner, with knowledge or reason to know

23

1           that the product will be used as a precursor to manufacture  
2 methamphetamine or any other illegal controlled substance, or with  
3 reckless disregard as to how the product will be used, shall be  
4 liable for all damages, whether directly or indirectly caused by  
5 the sale, transfer, distribution, dispensation, or furnishing.

6           1. Such damages may include, but are not limited to, any  
7 and all costs of detecting, investigating, and cleaning up or  
8 remediating clandestine or other unlawfully operated or maintained  
9 laboratories where controlled dangerous substances are  
10 manufactured, any and all costs of prosecuting criminal cases  
11 arising from such manufacture, and any and all consequential and  
12 punitive damages otherwise allowed by law.

13           2. A civil action to recover damages against persons,  
14 corporations or other entities violating this subsection may be  
15 brought only by the Attorney General, the Director of the Oklahoma  
16 State Bureau of Narcotics and Dangerous Drugs Control or by any

17 district attorney in whose jurisdiction such person may be shown  
18 to have committed such violation. Any funds recovered from such  
19 an action shall be used for payment or reimbursement of costs  
20 arising from investigating or prosecuting criminal or civil cases  
21 involving the manufacture of controlled dangerous substances, for  
22 drug education programs, or for payment or reimbursement of  
23 remediating contaminated methamphetamine laboratory sites.

24 D. Violation of subsection A or C of this section shall be  
25 considered to affect at the same time an entire community or  
26 neighborhood, or any considerable number of persons, although the  
27 extent of the annoyance or damage inflicted upon the individuals

24

1 may be unequal and is subject to the provisions of Section 2 of  
2 Title 50 of the Oklahoma Statutes and Section 1397 of Title 12 of  
3 the Oklahoma Statutes.

4 SECTION 13. AMENDATORY 63 O.S. 2001, Section 2-401,  
5 as last amended by Section 4, Chapter 283, O.S.L. 2005 (63 O.S.  
6 Supp. 2010, Section 2-401), is amended to read as follows:

7 Section 2-401. A. Except as authorized by the Uniform  
8 Controlled Dangerous Substances Act is shall be unlawful for any  
9 person:

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

16 2. To create, distribute, transport with intent to

17 distribute or dispense, or possess with intent to distribute, a  
18 counterfeit controlled dangerous substance; or

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

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

25 1. A substance classified in Schedule I or II which is a  
26 narcotic drug, lysergic acid diethylamide (LSD), gamma  
27 butyrolactone, gamma hydroxyvalerate, gamma valerolactone, 1,4

25

1 butanediol, or gamma-hydroxybutyric acid as defined in Sections 2-  
2 204 and 2-208 of this title, upon conviction, shall be guilty of a  
3 Schedule D Group A felony as defined by the Oklahoma Sentencing  
4 for Drug Crimes Act and shall be sentenced to a term of  
5 imprisonment [~~for not less than five (5) years nor more than life~~]  
6 as specified in the Drug Crimes Schedule of said act and a fine  
7 of not more than One Hundred Thousand Dollars (\$100,000.00), which  
8 shall be in addition to other punishment provided by law and shall  
9 not be imposed in lieu of other punishment. Any sentence to the  
10 custody of the Department of Corrections shall not be subject to  
11 statutory provisions for suspended sentences, deferred sentences,  
12 or probation except when the conviction is for a first offense;

13 2. Any other controlled dangerous substance classified in  
14 Schedule I, II, III, or IV, upon conviction, shall be guilty of a  
15 Schedule D Group B felony as defined by the Oklahoma Sentencing

16 for Drug Crimes Act and shall be sentenced to a term of  
17 imprisonment [~~for not less than two (2) years nor more than life~~]  
18 as specified in the Drug Crimes Schedule of said act and a fine  
19 of not more than Twenty Thousand Dollars (\$20,000.00), which shall  
20 be in addition to other punishment provided by law and shall not  
21 be imposed in lieu of other punishment. Any sentence to the  
22 custody of the Department of Corrections shall not be subject to  
23 statutory provisions for suspended sentences, deferred sentences,  
24 or probation except when the conviction is for a first offense;  
25 3. A substance classified in Schedule V, upon conviction,  
26 shall be guilty of a Schedule F felony as defined by the  
27 Oklahoma Sentencing for Drug Crimes Act and shall be sentenced to

26

1 a term of imprisonment [~~for not more than five (5) years~~] as  
2 specified in the Drug Crimes Schedule of said act and a fine of  
3 not more than One Thousand Dollars (\$1,000.00), which shall be in  
4 addition to other punishment provided by law and shall not be  
5 imposed in lieu of other punishment; or  
6 4. An imitation controlled substance as defined by Section  
7 2-101 of this title, upon conviction, shall be guilty of a  
8 misdemeanor and shall be sentenced to a term of imprisonment in  
9 the county jail for a period of not more than one (1) year and a  
10 fine of not more than One Thousand Dollars (\$1,000.00). A person  
11 convicted of a second violation of the provisions of this  
12 paragraph shall be guilty of a Schedule F felony as defined by  
13 the Oklahoma Sentencing for Drug Crimes Act and shall be  
14 sentenced to a term of imprisonment [~~for not more than five (5)~~  
15 ~~years~~] as specified in the Drug Crimes Schedule of said act and

16 a fine of not more than Five Thousand Dollars (\$5,000.00), which  
17 shall be in addition to other punishment provided by law and shall  
18 not be imposed in lieu of other punishment.

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

24 2. Any person convicted of violating the provisions of this  
25 paragraph is guilty of a Schedule C Group B felony as defined  
26 by the Oklahoma Sentencing for Drug Crimes Act and shall be  
27 punished by imprisonment in the [~~State Penitentiary for a term not~~

27

1 ~~to exceed life]~~ custody of the Department of Corrections as  
2 specified in the Drug Crimes Schedule of said act and a fine of  
3 not more than Twenty-five Thousand Dollars (\$25,000.00), which  
4 shall be in addition to other punishment provided by law and shall  
5 not be imposed in lieu of other punishment.

6 3. [~~A second or subsequent conviction for the violation of~~  
7 ~~the provisions of this paragraph is a felony punishable as a~~  
8 ~~habitual offender pursuant to Section 51.1 of Title 21 of the~~  
9 ~~Oklahoma Statutes.~~]

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

14 [~~D. 1. Any person convicted of a second or subsequent~~

15 ~~felony violation of the provisions of this section, except for~~  
16 ~~paragraph 4 of subsection B of this section, shall be punished as~~  
17 ~~a habitual offender pursuant to Section 51.1 of Title 21 of the~~  
18 ~~Oklahoma Statutes.]~~

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

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

27 ~~[E.]~~ Any person who is at least eighteen (18) years of age

1 and who violates the provisions of this section by using or  
2 soliciting the use of services of a person less than eighteen (18)  
3 years of age to distribute, dispense, transport with intent to  
4 distribute or dispense or cultivate a controlled dangerous  
5 substance or by distributing a controlled dangerous substance to a  
6 person under eighteen (18) years of age is punishable by twice the  
7 fine and by twice the imprisonment otherwise authorized.

8 ~~[F.]~~ E. Any person who violates any provision of this  
9 section by transporting with intent to distribute or dispense,  
10 distributing or possessing with intent to distribute a controlled  
11 dangerous substance to a person, or violation of subsection ~~[G]~~  
12 F of this section, in or on, or within two thousand (2,000) feet  
13 of the real property comprising a public or private elementary or  
14 secondary school, public vocational school, public or private

15 college or university, or other institution of higher education,  
16 recreation center or public park, including state parks and  
17 recreation areas, public housing project, or child care facility  
18 as defined by Section 402 of Title 10 of the Oklahoma Statutes  
19 shall be guilty of a Schedule B felony as defined by the Oklahoma  
20 Sentencing for Drug Crimes Act and shall be punished by[+]

21 ~~[1. For a first offense, a term of]~~ imprisonment~~[, or by the~~  
22 ~~imposition of a fine or by both, not exceeding twice that~~  
23 ~~authorized by the appropriate provision of this section and shall~~  
24 ~~serve a minimum of fifty percent (50%) of the sentence received~~  
25 ~~prior to becoming eligible for state correctional institution~~  
26 ~~earned credits toward the completion of said sentence; or]~~

27 ~~[2. For a second or subsequent offense, a term of~~

29

1 ~~imprisonment as provided for a habitual offender pursuant to~~  
2 ~~Section 51.1 of Title 21 of the Oklahoma Statutes. In addition~~  
3 ~~the violator shall serve eighty five percent (85%) of the sentence~~  
4 ~~received prior to becoming eligible for state correctional~~  
5 ~~institution earned credits toward the completion of said sentence~~  
6 ~~or eligibility for parole] as specified in the Drug Crimes~~  
7 Schedule of said act.

8 ~~[G.]~~ F. 1. Except as authorized by the Uniform  
9 Controlled Dangerous Substances Act, it shall be unlawful for any  
10 person to manufacture or attempt to manufacture any controlled  
11 dangerous substance or possess any substance listed in Section 2-  
12 322 of this title or any substance containing any detectable  
13 amount of pseudoephedrine or its salts, optical isomers or salts

14 of optical isomers, iodine or its salts, optical isomers or salts  
15 of optical isomers, hydriodic acid, sodium metal, lithium metal,  
16 anhydrous ammonia, phosphorus, or organic solvents with the intent  
17 to use that substance to manufacture a controlled dangerous  
18 substance.

19 2. Any person violating the provisions of this subsection  
20 with respect to the unlawful manufacturing or attempting to  
21 unlawfully manufacture any controlled dangerous substance, or  
22 possessing any substance listed in this subsection or Section 2-  
23 322 of this title, upon conviction, is guilty of a Schedule B  
24 felony as defined by the Oklahoma Sentencing for Drug Crimes Act  
25 and shall be punished by imprisonment in the [~~State Penitentiary~~  
26 ~~for not less than seven (7) years nor more than life~~] custody of  
27 the Department of Corrections as specified in the Drug Crimes

30

1 Schedule of said act and by a fine of not less than Fifty  
2 Thousand Dollars (\$50,000.00), which shall be in addition to other  
3 punishment provided by law and shall not be imposed in lieu of  
4 other punishment. The possession of any amount of anhydrous  
5 ammonia in an unauthorized container shall be prima facie evidence  
6 of intent to use such substance to manufacture a controlled  
7 dangerous substance.

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

12 a. one (1) kilogram or more of a mixture or substance  
13 containing a detectable amount of heroin,

14           b.           five (5) kilograms or more of a mixture or substance  
15 containing a detectable amount of:

16           (1)           coca leaves, except coca leaves and extracts of  
17 coca leaves from which cocaine, ecgonine, and derivatives of  
18 ecgonine or their salts have been removed,

19           (2)           cocaine, its salts, optical and geometric isomers,  
20 and salts of isomers,

21           (3)           ecgonine, its derivatives, their salts, isomers,  
22 and salts of isomers, or

23           (4)           any compound, mixture, or preparation which  
24 contains any quantity of any of the substances referred to in  
25 divisions (1) through (3) of this subparagraph,

26           c.           fifty (50) grams or more of a mixture or substance  
27 described in division (2) of subparagraph b of this paragraph

31

1           which contains cocaine base,

2           d.           one hundred (100) grams or more of phencyclidine  
3 (PCP) or one (1) kilogram or more of a mixture or substance  
4 containing a detectable amount of phencyclidine (PCP),

5           e.           ten (10) grams or more of a mixture or substance  
6 containing a detectable amount of lysergic acid diethylamide  
7 (LSD),

8           f.           four hundred (400) grams or more of a mixture or  
9 substance containing a detectable amount of N-phenyl-N-~~[1-(2-~~  
10 ~~phenylethy)-4 piperidinyl]~~ propanamide or 100 grams or more of a  
11 mixture or substance containing a detectable amount of any  
12 analogue of N-phenyl-N-~~[1-(2-phenylethyl)-4 piperidinyl]~~

13 propanamide,

14 g. one thousand (1,000) kilograms or more of a mixture  
15 or substance containing a detectable amount of marihuana or one  
16 thousand (1000) or more marihuana plants regardless of weight, or

17 h. fifty (50) grams or more of methamphetamine, its  
18 salts, isomers, and salts of its isomers or 500 grams or more of a  
19 mixture or substance containing a detectable amount of

20 methamphetamine, its salts, isomers, or salts of its isomers,

21 upon conviction, is guilty of aggravated manufacturing a  
22 controlled dangerous substance, a Schedule A felony as defined by  
23 the Oklahoma Sentencing for Drug Crimes Act punishable by

24 imprisonment in the [~~State Penitentiary for not less than twenty~~  
25 ~~(20) years nor more than life~~] custody of the Department of

26 Corrections as specified in the Drug Crimes Schedule of said act

27 and by a fine of not less than Fifty Thousand Dollars

1 (\$50,000.00), which shall be in addition to other punishment  
2 provided by law and shall not be imposed in lieu of other  
3 punishment. Any person convicted of a violation of the provisions  
4 of this paragraph shall be required to serve a minimum of eighty-  
5 five percent (85%) of the sentence received prior to becoming  
6 eligible for state correctional earned credits towards the  
7 completion of the sentence or eligible for parole.

8 4. Any sentence to the custody of the Department of  
9 Corrections for any violation of paragraph 3 of this subsection  
10 shall not be subject to statutory provisions for suspended  
11 sentences, deferred sentences, or probation. A person convicted  
12 of a second or subsequent violation of the provisions of paragraph

13 3 of this subsection shall be punished as a habitual offender  
14 pursuant to Section 51.1 of Title 21 of the Oklahoma Statutes and  
15 shall be required to serve a minimum of eighty-five percent (85%)  
16 of the sentence received prior to becoming eligible for state  
17 correctional earned credits or eligibility for parole.

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

24 ~~[I.]~~ H. Any person convicted of any offense described in  
25 this section shall, in addition to any fine imposed, pay a special  
26 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be  
27 deposited into the Trauma Care Assistance Revolving Fund created

1 in Section 1-2522 of this title.

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

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

12 upon collection.

13 SECTION 14. AMENDATORY 63 O.S. 2001, Section 2-402,  
14 as last amended by Section 1, Chapter 306, O.S.L. 2009 (63 O.S.  
15 Supp. 2010, Section 2-402), is amended to read as follows:

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

22 2. It shall be unlawful for any person to purchase any  
23 preparation excepted from the provisions of the Uniform Controlled  
24 Dangerous Substances Act [~~, Section 2-101 et seq. of this title,~~]  
25 pursuant to Section 2-313 of this title in an amount or within a  
26 time interval other than that permitted by Section 2-313 of this  
27 title.

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

- 10 a. the packaging of the product,  
11 b. the name of the product, and

12 c. the distribution and promotion of the product,  
13 including verbal representations made at the point of sale.

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

15 1. Any Schedule I or II substance, except marihuana or a  
16 substance included in subsection D of Section 2-206 of this title,  
17 is guilty of a Schedule F felony as defined by the Oklahoma  
18 Sentencing for Drug Crimes Act punishable by imprisonment [~~for~~  
19 ~~not less than two (2) years nor more than ten (10) years and by a~~  
20 ~~fine not exceeding Five Thousand Dollars (\$5,000.00). A second or~~  
21 ~~subsequent violation of this section with respect to Schedule I or~~  
22 ~~II substance, except marijuana or a substance included in~~  
23 ~~subsection D of Section 2-206 of this title, is a felony~~  
24 ~~punishable by imprisonment for not less than four (4) years nor~~  
25 ~~more than twenty (20) years and by a fine not exceeding Ten~~  
26 ~~Thousand Dollars (\$10,000.00)] as specified in the Drug Crimes  
27 Schedule of said act; or~~

1 2. Any Schedule III, IV or V substance, marihuana, a  
2 substance included in subsection D of Section 2-206 of this title,  
3 or any preparation excepted from the provisions of the Uniform  
4 Controlled Dangerous Substances Act is guilty of a misdemeanor  
5 punishable by confinement for not more than one (1) year and by a  
6 fine not exceeding One Thousand Dollars (\$1,000.00). A second or  
7 subsequent violation of this section with respect to any Schedule  
8 III, IV or V substance, marijuana, a substance included in  
9 subsection D of Section 2-206 of this title, or any preparation  
10 excepted from the provisions of the Uniform Controlled Dangerous

11 Substances Act is a Schedule F felony as defined by the  
12 Oklahoma Sentencing for Drug Crimes Act punishable by  
13 imprisonment [~~for not less than two (2) years nor more than ten~~  
14 ~~(10) years and by a fine not exceeding Five Thousand Dollars~~  
15 ~~(\$5,000.00)] as specified in the Drug Crimes Schedule of said  
16 act.~~

17 C. [~~Any person who violates any provision of this section~~  
18 ~~by possessing or purchasing a controlled dangerous substance from~~  
19 ~~any person, in or on, or within one thousand (1,000) feet of the~~  
20 ~~real property comprising a public or private elementary or~~  
21 ~~secondary school, public vocational school, public or private~~  
22 ~~college or university, or other institution of higher education,~~  
23 ~~recreation center or public park, including state parks and~~  
24 ~~recreation areas, or in the presence of any child under twelve~~  
25 ~~(12) years of age, shall be guilty of a felony and punished by:]~~

26 [~~1. For a first offense, a term of imprisonment, or by the~~  
27 ~~imposition of a fine, or by both, not exceeding twice that~~

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1 ~~authorized by the appropriate provision of this section. In~~  
2 ~~addition, the person shall serve a minimum of fifty percent (50%)~~  
3 ~~of the sentence received prior to becoming eligible for state~~  
4 ~~correctional institution earned credits toward the completion of~~  
5 ~~said sentence; or]~~

6 [~~2. For a second or subsequent offense, a term of~~  
7 ~~imprisonment not exceeding three times that authorized by the~~  
8 ~~appropriate provision of this section and the person shall serve a~~  
9 ~~minimum of ninety percent (90%) of the sentence received prior to~~  
10 ~~becoming eligible for state correctional institution earned~~

11 ~~credits toward the completion of said sentence, and imposition of~~  
12 ~~a fine not exceeding Ten Thousand Dollars (\$10,000.00).]~~

13 [D.] Any person convicted of any offense described in this  
14 section shall, in addition to any fine imposed, pay a special  
15 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be  
16 deposited into the Trauma Care Assistance Revolving Fund created  
17 in Section 1-2522 of this title.

18 SECTION 15. AMENDATORY 63 O.S. 2001, Section 2-404,  
19 as amended by Section 4, Chapter 396, O.S.L. 2004 (63 O.S. Supp.  
20 2010, Section 2-404), is amended to read as follows:

21 Section 2-404. A. It shall be unlawful for any person:

22 1. Who is subject to the requirements of Article III of  
23 this act to distribute or dispense a controlled dangerous  
24 substance in violation of Section 2-308 of this title;

25 2. Who is a registrant to manufacture, distribute, or  
26 dispense a controlled dangerous substance not authorized by his  
27 registration to another registrant or other authorized person;

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1 3. To omit, remove, alter, or obliterate a symbol required  
2 by the Federal Controlled Substances Act or this act;

3 4. To refuse or fail to make, keep, or furnish any record,  
4 notification, order form, statement, invoice, or information  
5 required under this act;

6 5. To refuse any entry into any premises or inspection  
7 authorized by this act; or

8 6. To keep or maintain any store, shop, warehouse, dwelling  
9 house, building, vehicle, boat, aircraft, or any place whatever,

10 which is resorted to by persons using controlled dangerous  
11 substances in violation of this act for the purpose of using such  
12 substances, or which is used for the keeping or selling of the  
13 same in violation of this act.

14 B. Any person who violates this section is punishable by a  
15 civil fine of not more than One Thousand Dollars (\$1,000.00);  
16 provided, that, if the violation is prosecuted by an information  
17 or indictment which alleges that the violation was committed  
18 knowingly or intentionally, and the trier of fact specifically  
19 finds that the violation was committed knowingly or intentionally,  
20 such person is guilty of a Schedule F felony as defined by the  
21 Oklahoma Sentencing for Drug Crimes Act punishable by  
22 imprisonment [~~for not more than five (5) years~~] as specified in  
23 the Drug Crimes Schedule of said act, and a fine of not more than  
24 Ten Thousand Dollars (\$10,000.00), except that if such person is a  
25 corporation it shall be subject to a civil penalty of not more  
26 than One Hundred Thousand Dollars (\$100,000.00). The fine  
27 provided for in this subsection shall be in addition to other

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1 punishments provided by law and shall not be in lieu of other  
2 punishment.

3 C. [~~Any person convicted of a second or subsequent~~  
4 ~~violation of this section is punishable by a term of imprisonment~~  
5 ~~twice that otherwise authorized and by twice the fine otherwise~~  
6 ~~authorized. The fine provided for in this subsection shall be in~~  
7 ~~addition to other punishments provided by law and shall not be in~~  
8 ~~lieu of other punishment.~~]

9 [~~D.~~] Any person convicted of any offense described in this

10 section shall, in addition to any fine imposed, pay a special  
11 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be  
12 deposited into the Trauma Care Assistance Revolving Fund created  
13 in Section 1-2522 of this title.

14 SECTION 16. AMENDATORY 63 O.S. 2001, Section 2-405,  
15 as last amended by Section 5, Chapter 396, O.S.L. 2005 (63 O.S.  
16 Supp. 2010, Section 2-405), is amended to read as follows:

17 Section 2-405. A. No person shall use tincture of opium,  
18 tincture of opium camphorated, or any derivative thereof, by the  
19 hypodermic method, either with or without a medical prescription  
20 therefor.

21 B. No person shall use drug paraphernalia to plant,  
22 propagate, cultivate, grow, harvest, manufacture, compound,  
23 convert, produce, process, prepare, test, analyze, pack, repack,  
24 store, contain, conceal, inject, ingest, inhale or otherwise  
25 introduce into the human body a controlled dangerous substance in  
26 violation of the Uniform Controlled Dangerous Substances Act,  
27 except those persons holding an unrevoked license in the

1 professions of podiatry, dentistry, medicine, nursing, optometry,  
2 osteopathy, veterinary medicine or pharmacy.

3 C. No person shall deliver, sell, possess or manufacture  
4 drug paraphernalia knowing, or under circumstances where one  
5 reasonably should know, that it will be used to plant, propagate,  
6 cultivate, grow, harvest, manufacture, compound, convert, produce,  
7 process, prepare, test, analyze, pack, repack, store, contain,  
8 conceal, inject, ingest, inhale or otherwise introduce into the

9 human body a controlled dangerous substance in violation of the  
10 Uniform Controlled Dangerous Substances Act.

11 D. Any person eighteen (18) years of age or over who  
12 violates subsection C of this section by delivering or selling  
13 drug paraphernalia to a person under eighteen (18) years of age  
14 shall, upon conviction, be guilty of a Schedule F felony as  
15 defined by the Oklahoma Sentencing for Drug Crimes Act punishable  
16 by imprisonment in the custody of the Department of Corrections as  
17 specified in the Drug Crimes Schedule of said act.

18 E. Any person who violates subsections A, B or C of this  
19 section shall, upon conviction, be guilty of a misdemeanor  
20 punishable as follows:

21 1. For a first offense the person shall be punished by  
22 imprisonment in the county jail for not more than one (1) year or  
23 by a fine of not more than One Thousand Dollars (\$1,000.00), or  
24 both such fine and imprisonment;

25 2. For a second offense the person shall be punished by  
26 imprisonment in the county jail for not more than one (1) year or  
27 by a fine of not more than Five Thousand Dollars (\$5,000.00), or

1 both such fine and imprisonment; and

2 3. For a third or subsequent offense the person shall be  
3 punished by imprisonment in the county jail for not more than one  
4 (1) year or by a fine of not more than Ten Thousand Dollars  
5 (\$10,000.00), or both such fine and imprisonment.

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

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

11 SECTION 17. AMENDATORY 63 O.S. 2001, Section 2-406,  
12 as amended by Section 6, Chapter 396, O.S.L. 2004 (63 O.S. Supp.  
13 2010, Section 2-406), is amended to read as follows:

14 Section 2-406. A. It shall be unlawful for any registrant  
15 knowingly or intentionally:

16 1. To distribute, other than by dispensing or as otherwise  
17 authorized by this act, a controlled dangerous substance  
18 classified in Schedules I or II, in the course of his legitimate  
19 business, except pursuant to an order form as required by Section  
20 2-308 of this title;

21 2. To use in the course of the manufacture or distribution  
22 of a controlled dangerous substance a registration number which is  
23 fictitious, revoked, suspended or issued to another person;

24 3. To acquire or obtain possession of a controlled  
25 dangerous substance by misrepresentation, fraud, forgery,  
26 deception or subterfuge;

27 4. To furnish false or fraudulent material information in,

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1 or omit any material information from, any application, report, or  
2 other document required to be kept or filed under this act, or any  
3 record required to be kept by this act; and

4 5. To make, distribute, or possess any punch, die, plate,  
5 stone, or other thing designed to print, imprint, or reproduce the  
6 trademark, trade name, or other identifying mark, imprint, or  
7 device of another or any likeness of any of the foregoing upon any

8 drug or container or labeling thereof so as to render such drug a  
9 counterfeit controlled dangerous substance.

10 B. Any person who violates this section is guilty of a  
11 Schedule E felony as defined by the Oklahoma Sentencing for  
12 Drug Crimes Act punishable by imprisonment [~~for not more than~~  
13 ~~twenty (20) years~~] as specified in the Drug Crimes Schedule of  
14 said act or a fine of not more than Two Hundred Fifty Thousand  
15 Dollars (\$250,000.00), or both.

16 C. Any person convicted of a second or subsequent violation  
17 of this section is punishable by a term of imprisonment twice that  
18 otherwise authorized and by twice the fine otherwise authorized.  
19 Convictions for second or subsequent violations of this section  
20 shall not be subject to statutory provisions for suspended  
21 sentences, deferred sentences, or probation, unless the person is  
22 placed in a certified drug treatment program.

23 D. Any person convicted of any offense described in this  
24 section shall, in addition to any fine imposed, pay a special  
25 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be  
26 deposited into the Trauma Care Assistance Revolving Fund created  
27 in Section 1-2522 of this title.

1 SECTION 18. AMENDATORY 63 O.S. 2001, Section 2-407,  
2 as amended by Section 7, Chapter 396, O.S.L. 2004 (63 O.S. Supp.  
3 2010, Section 2-407), is amended to read as follows:

4 Section 2-407. A. No person shall obtain or attempt to  
5 obtain any preparation excepted from the provisions of the Uniform  
6 Controlled Dangerous Substances Act pursuant to Section 2-313 of  
7 this title in a manner inconsistent with the provisions of

8 paragraph 1 of subsection B of Section 2-313 of this title, or a  
9 controlled dangerous substance or procure or attempt to procure  
10 the administration of a controlled dangerous substance:

- 11 1. By fraud, deceit, misrepresentation, or subterfuge;
- 12 2. By the forgery of, alteration of, adding any information  
13 to or changing any information on a prescription or of any written  
14 order;
- 15 3. By the concealment of a material fact; or
- 16 4. By the use of a false name or the giving of a false  
17 address.

18 B. Except as authorized by this act, a person shall not  
19 manufacture, create, deliver, or possess with intent to  
20 manufacture, create, or deliver or possess a prescription form, an  
21 original prescription form, or a counterfeit prescription form.  
22 This shall not apply to the legitimate manufacture or delivery of  
23 prescription forms, or a person acting as an authorized agent of  
24 the practitioner.

25 C. Information communicated to a physician in an effort  
26 unlawfully to procure a controlled dangerous substance, or  
27 unlawfully to procure the administration of any such drug, shall

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1 not be deemed a privileged communication.

2 D. Any person who violates this section is guilty of a  
3 Schedule E felony as defined by the Oklahoma Sentencing for  
4 Drug Crimes Act punishable by imprisonment [~~for not more than ten~~  
5 ~~(10) years~~] as specified in the Drug Crimes Schedule of said  
6 act, by a fine of not more than Ten Thousand Dollars

7 (\$10,000.00), or by both such fine and imprisonment. [~~A second or~~  
8 ~~subsequent offense under this section is a felony punishable by~~  
9 ~~imprisonment for not less than four (4) years nor more than twenty~~  
10 ~~(20) years, by a fine of not more than Twenty Thousand Dollars~~  
11 ~~(\$20,000.00), or by both such fine and imprisonment.]~~

12 E. Convictions for second or subsequent violations of this  
13 section shall not be subject to statutory provisions for suspended  
14 sentences, deferred sentences, or probation.

15 F. Any person convicted of any offense described in this  
16 section shall, in addition to any fine imposed, pay a special  
17 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be  
18 deposited into the Trauma Care Assistance Revolving Fund created  
19 in Section 1-2522 of this title.

20 SECTION 19. AMENDATORY 63 O.S. 2001, Section 2-415,  
21 as last amended by Section 5, Chapter 199, O.S.L. 2007 (63 O.S.  
22 Supp. 2010, Section 2-415), is amended to read as follows:

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

- 26 1. Marihuana;  
27 2. Cocaine or coca leaves;

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- 1 3. Heroin;  
2 4. Amphetamine or methamphetamine;  
3 5. Lysergic acid diethylamide (LSD);  
4 6. Phencyclidine (PCP);  
5 7. Cocaine base, commonly known as "crack" or "rock"; or  
6 8. 3,4-Methylenedioxy methamphetamine, commonly known as

7 "ecstasy" or MDMA.

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  
11 or possess a controlled substance specified in subsection A of  
12 this section in the quantities specified in subsection C of this  
13 section; or

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

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

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

27 Any person who commits the conduct described in paragraph

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1 1[~~7~~] or 2 [~~or 3~~] of this subsection and represents the quantity  
2 of the controlled substance to be an amount described in  
3 subsection C of this section shall be punished under the  
4 provisions appropriate for the amount of controlled substance  
5 represented, regardless of the actual amount.

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

8 1. Marihuana:

9 a. twenty-five (25) pounds or more of a mixture or  
10 substance containing a detectable amount of marihuana, such  
11 violation shall be a Schedule C Group B felony, as defined by  
12 the Oklahoma Sentencing for Drug Crimes Act, punishable by  
13 imprisonment as specified in the Drug Crimes Schedule of said act,  
14 and by a fine of not less than Twenty-five Thousand Dollars  
15 (\$25,000.00) and not more than One Hundred Thousand Dollars  
16 (\$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, such  
19 violation shall be deemed aggravated trafficking and shall be a  
20 Schedule A Group B felony, as defined by the Oklahoma Sentencing  
21 for Drug Crimes Act, punishable by imprisonment as specified  
22 in the Drug Crime Schedule of said act, and by a fine of not less  
23 than One Hundred Thousand Dollars (\$100,000.00) and not more than  
24 Five Hundred Thousand Dollars (\$500,000.00);

25 2. Cocaine or coca leaves:

26 a. twenty-eight (28) grams or more of a mixture or  
27 substance containing a detectable amount of cocaine or coca

1 leaves, such violation shall be a Schedule C Group A felony, as  
2 defined by the Oklahoma Sentencing for Drug Crimes Act,  
3 punishable by imprisonment as specified in the Drug Crimes  
4 Schedule of said act, and by a fine of not less than Twenty-five  
5 Thousand Dollars (\$25,000.00) and not more than One Hundred

6 Thousand Dollars (\$100,000.00),

7 b. three hundred (300) grams or more of a mixture or  
8 substance containing a detectable amount of cocaine or coca  
9 leaves, such violation shall be a Schedule A Group A felony, as  
10 defined by the Oklahoma Sentencing for Drug Crimes Act,  
11 punishable by imprisonment as specified in the Drug Crimes  
12 Schedule of said act, and by a fine of not less than One Hundred  
13 Thousand Dollars (\$100,000.00) and not more than Five Hundred  
14 Thousand Dollars (\$500,000.00), or

15 c. one (1) pound or more of a mixture or substance  
16 containing a detectable amount of cocaine or coca leaves, such  
17 violation shall be deemed aggravated trafficking and shall be a  
18 Schedule C Group A felony, as defined by the Oklahoma Sentencing  
19 for Drug Crimes Act, punishable by imprisonment as specified in  
20 the Drug Crimes Schedule of said act, and by a fine of not less  
21 than One Hundred Thousand Dollars (\$100,000.00) and not more than  
22 Five Hundred Thousand Dollars (\$500,000.00);

23 3. Heroin:

24 a. ten (10) grams or more of a mixture or substance  
25 containing a detectable amount of heroin, such violation shall be  
26 a Schedule C Group A felony, as defined by the Oklahoma  
27 Sentencing for Drug Crimes Act, punishable by imprisonment as

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1 specified in the Drug Crimes Schedule of said act, and by a fine  
2 of not less than Twenty-five Thousand Dollars (\$25,000.00) and not  
3 more than Fifty Thousand Dollars (\$50,000.00), or

4 b. twenty-eight (28) grams or more of a mixture or

5 substance containing a detectable amount of heroin, such violation  
6 shall be a Schedule A Group A felony, as defined by the Oklahoma  
7 Sentencing for Drug Crimes Act, punishable by imprisonment as  
8 specified in the Drug Crimes Schedule of said act, and by a fine  
9 of not less than Fifty Thousand Dollars (\$50,000.00) and not more  
10 than Five Hundred Thousand Dollars (\$500,000.00);

11 4. Amphetamine or methamphetamine:

12 a. twenty (20) grams or more of a mixture or substance  
13 containing a detectable amount of amphetamine or methamphetamine,  
14 such violation shall be a Schedule C Group B felony, as defined  
15 by the Oklahoma Sentencing for Drug Crimes Act, punishable by  
16 imprisonment as specified in the Drug Crimes Schedule of said act,  
17 and by a fine of not less than Twenty-five Thousand Dollars  
18 (\$25,000.00) and not more than Two Hundred Thousand Dollars  
19 (\$200,000.00),

20 b. two hundred (200) grams or more of a mixture or  
21 substance containing a detectable amount of amphetamine or  
22 methamphetamine, such violation shall be a Schedule A Group B  
23 felony, as defined by the Oklahoma Sentencing for Drug Crimes  
24 Act, punishable by imprisonment as specified in the Drug Crimes  
25 Schedule of said act, and by a fine of not less than Fifty  
26 Thousand Dollars (\$50,000.00) and not more than Five Hundred  
27 Thousand Dollars (\$500,000.00), or

1 c. one (1) pound or more of a mixture or substance  
2 containing a detectable amount of amphetamine or methamphetamine,  
3 such violation shall be deemed aggravated trafficking and shall  
4 be a Schedule A Group B felony, as defined by the Oklahoma

5 Sentencing for Drug Crimes Act, punishable by imprisonment as  
6 specified in the Drug Crimes Schedule of said act, and by a fine  
7 of not less than Fifty Thousand Dollars (\$50,000.00) and not more  
8 than Five Hundred Thousand Dollars (\$500,000.00);

9 5. Lysergic acid diethylamide (LSD):

10 a. if the quantity involved is not less than fifty (50)  
11 dosage units and not more than one thousand (1,000) dosage units,  
12 such violation shall be a Schedule C Group A felony, as defined  
13 by the Oklahoma Sentencing for Drug Crimes Act punishable by  
14 imprisonment as specified in the Drug Crimes Schedule of said act,  
15 and by a fine of not less than Fifty Thousand Dollars  
16 (\$50,000.00) and not more than One Hundred Thousand Dollars  
17 (\$100,000.00), or

18 b. if the quantity involved is more than one thousand  
19 (1,000) dosage units, such violation shall be a Schedule A Group  
20 A felony, as defined by the Oklahoma Sentencing for Drug Crimes  
21 Act, punishable by imprisonment as specified in the Drug Crimes  
22 Schedule of said act, and by a fine of not less than One Hundred  
23 Thousand Dollars (\$100,000.00) and not more than Two Hundred Fifty  
24 Thousand Dollars (\$250,000.00);

25 6. Phencyclidine (PCP):

26 a. one (1) ounce or more of a substance containing a  
27 mixture or substance containing a detectable amount of

1 phencyclidine (PCP), such violation shall be a Schedule C Group B  
2 felony, as defined by the Oklahoma Sentencing for Drug Crimes  
3 Act, punishable by imprisonment as specified in the Drug Crimes

4 Schedule of said act, and by a fine of not less than Twenty  
5 Thousand Dollars (\$20,000.00) and not more than Fifty Thousand  
6 Dollars (\$50,000.00), or

7 b. eight (8) ounces or more of a substance containing a  
8 mixture or substance containing a detectable amount of  
9 phencyclidine (PCP), such violation shall be a Schedule A Group B  
10 felony, as defined by the Oklahoma Sentencing for Drug Crimes  
11 Act, punishable by imprisonment as specified in the Drug Crimes  
12 Schedule of said act, and by a fine of not less than Fifty  
13 Thousand Dollars (\$50,000.00) and not more than Two Hundred Fifty  
14 Thousand Dollars (\$250,000.00);

15 7. Cocaine base:

16 a. five (5) grams or more of a mixture or substance  
17 described in paragraph 2 of this subsection which contains cocaine  
18 base, such violation shall be a Schedule C Group A felony, as  
19 defined by the Oklahoma Sentencing for Drug Crimes Act,  
20 punishable by imprisonment as specified in the Drug Crimes  
21 Schedule of said act, and by a fine of not less than Twenty-five  
22 Thousand Dollars (\$25,000.00) and not more than One Hundred  
23 Thousand Dollars (\$100,000.00), or

24 b. fifty (50) grams or more of a mixture or substance  
25 described in paragraph 2 of this subsection which contains cocaine  
26 base, such violation shall be a Schedule A Group A felony, as  
27 defined by the Oklahoma Sentencing for Drug Crimes Act,

1 punishable by imprisonment as specified in the Drug Crimes  
2 Schedule of said act, and by a fine of not less than One Hundred  
3 Thousand Dollars (\$100,000.00) and not more than Five Hundred

4 Thousand Dollars (\$500,000.00); and

5 8. Methylenedioxy methamphetamine:

6 a. thirty (30) tablets or ten (10) grams of a mixture  
7 or substance containing a detectable amount of 3,4-Methylenedioxy  
8 methamphetamine, such violation shall be a Schedule C Group B  
9 felony, as defined by the Oklahoma Sentencing for Drug Crimes  
10 Act, punishable by imprisonment as specified in the Drug Crimes  
11 Schedule of said act, and by a fine of not less than Twenty-five  
12 Thousand Dollars (\$25,000.00) and not more than One Hundred  
13 Thousand Dollars (\$100,000.00), or

14 b. one hundred (100) tablets or thirty (30) grams of a  
15 mixture or substance containing a detectable amount of 3,4-  
16 Methylenedioxy methamphetamine, such violation shall be a  
17 Schedule A Group B felony, as defined by the Oklahoma Sentencing  
18 for Drug Crimes Act, punishable by imprisonment as specified in  
19 the Drug Crimes Schedule of said act, and by a fine of not less  
20 than One Hundred Thousand Dollars (\$100,000.00) and not more than  
21 Five Hundred Thousand Dollars (\$500,000.00).

22 D. ~~[Any person who violates the provisions of this section~~  
23 ~~with respect to a controlled substance specified in subsection A~~  
24 ~~of this section in a quantity specified in subsection C of this~~  
25 ~~section shall, in addition to any fines specified by this section,~~  
26 ~~be punishable by a term of imprisonment as follows:]~~

27 ~~[1. Not less than twice the term of imprisonment provided~~

1 ~~for in Section 2-401 of this title;]~~

2 ~~[2. If the person has previously been convicted of one~~

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

8 [3. ~~If the person has previously been convicted of two or~~  
9 ~~more violations of this section or any provision of the Uniform~~  
10 ~~Controlled Dangerous Substances Act which constitutes a felony, or~~  
11 ~~a combination of such violations arising out of separate and~~  
12 ~~distinct transactions, life without parole; and]~~

13 [4. ~~If the person is convicted of aggravated trafficking as~~  
14 ~~provided in subparagraph b of paragraph 1 of subsection C of this~~  
15 ~~section, subparagraph c of paragraph 2 of subsection C of this~~  
16 ~~section or subparagraph c of paragraph 4 of subsection C of this~~  
17 ~~section, a mandatory minimum sentence of imprisonment in the~~  
18 ~~custody of the Department of Corrections for a term of fifteen~~  
19 ~~(15) years of which the person shall serve eighty five percent~~  
20 ~~(85%) of such mandatory sentence before being eligible for parole~~  
21 ~~consideration or any earned credits.]~~

22 [The terms of imprisonment specified in this subsection shall  
23 not be subject to statutory provisions for suspension, deferral or  
24 probation, or state correctional institution earned credits  
25 accruing from and after November 1, 1989, except for the  
26 achievement earned credits authorized by subsection H of Section  
27 138 of Title 57 of the Oklahoma Statutes. To qualify for such

1 ~~achievement credits, such inmates must also be in compliance with~~  
2 ~~the standards for Class level 2 behavior, as defined in subsection~~

3 ~~D of Section 138 of Title 57 of the Oklahoma Statutes.]~~

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

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

12 SECTION 20. AMENDATORY 63 O.S. 2001, Section 2-  
13 503.1, is amended to read as follows:

14 Section 2-503.1 A. It is unlawful for any person knowingly  
15 or intentionally to receive or acquire proceeds and to conceal  
16 such proceeds, or engage in transactions involving proceeds, known  
17 to be derived from any violation of the Uniform Controlled  
18 Dangerous Substances Act, Section 2-101 et seq. of this title, or  
19 of any statute of the United States relating to controlled  
20 dangerous substances as defined by the Uniform Controlled  
21 Dangerous Substances Act, Section 2-101 et seq. of this title.

22 This subsection does not apply to any transaction between an  
23 individual and the counsel of the individual necessary to preserve  
24 the right to representation of the individual, as guaranteed by  
25 the Oklahoma Constitution and by the Sixth Amendment of the United  
26 States Constitution. However, this exception does not create any  
27 presumption against or prohibition of the right of the state to

1 seek and obtain forfeiture of any proceeds derived from a

2 violation of the Uniform Controlled Dangerous Substances Act,  
3 Section 2-101 et seq. of this title, or of any statute of the  
4 United States relating to controlled dangerous substances as  
5 defined by the Uniform Controlled Dangerous Substances Act,  
6 Section 2-101 et seq. of this title.

7 B. It is unlawful for any person knowingly or intentionally  
8 to give, sell, transfer, trade, invest, conceal, transport, or  
9 maintain an interest in or otherwise make available anything of  
10 value which that person knows is intended to be used for the  
11 purpose of committing or furthering the commission of any  
12 violation of the Uniform Controlled Dangerous Substances Act,  
13 Section 2-101 et seq. of this title, or of any statute of the  
14 United States relating to controlled dangerous substances as  
15 defined by the Uniform Controlled Dangerous Substances Act,  
16 Section 2-101 et seq. of this title.

17 C. It is unlawful for any person knowingly or intentionally  
18 to direct, plan, organize, initiate, finance, manage, supervise,  
19 or facilitate the transportation or transfer of proceeds known to  
20 be derived from any violation of the Uniform Controlled Dangerous  
21 Substances Act, Section 2-101 et seq. of this title, or of any  
22 statute of the United States relating to controlled dangerous  
23 substances as defined by the Uniform Controlled Dangerous  
24 Substances Act, Section 2-101 et seq. of this title.

25 D. It is unlawful for any person knowingly or intentionally  
26 to conduct a financial transaction involving proceeds derived from  
27 a violation of the Uniform Controlled Dangerous Substances Act,

1 Section 2-101 et seq. of this title, or of any statute of the

2 United States relating to controlled dangerous substances as  
3 defined by the Uniform Controlled Dangerous Substances Act,  
4 Section 2-101 et seq. of this title, when the transaction is  
5 designed in whole or in part to conceal or disguise the nature,  
6 location, source, ownership, or control of the proceeds known to  
7 be derived from a violation of the Uniform Controlled Dangerous  
8 Substances Act, Section 2-101 et seq. of this title, or of any  
9 statute of the United States relating to controlled dangerous  
10 substances as defined by the Uniform Controlled Dangerous  
11 Substances Act, Section 2-101 et seq. of this title, or to avoid a  
12 transaction reporting requirement under state or federal law.

13 E. Any person convicted of violating any of the provisions  
14 of this section is guilty of a Schedule D Group C felony, as  
15 defined by the Oklahoma Sentencing for Drug Crimes Act, and may  
16 be punished by imprisonment [~~for not less than two (2) years nor~~  
17 ~~more than ten (10) years]~~ as specified in the Drug Crimes  
18 Schedule of said act, or by a fine of not more than Fifty  
19 Thousand Dollars (\$50,000.00) or by both said imprisonment and  
20 fine.

21 SECTION 21. AMENDATORY 63 O.S. 2001, Section 2-509,  
22 is amended to read as follows:

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

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

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

23           2. Whenever any such plants are destroyed or eradicated by  
24 order of the commissioners as provided herein, the cost of the  
25 same shall, if the work or labor be furnished by the  
26 commissioners, be taxed against the lands whereon the work was  
27 performed, and shall be a lien upon such land in all manner and

1 respects as a lien of judgment, if the owner is charged with a  
2 violation of subsection B of this section. If the violation of  
3 subsection B of this section is by a person other than the owner  
4 of the land, without the knowledge of the owner, the costs shall  
5 be paid by the initiating law enforcement agency.

6 D. Knowingly violating the provisions of subsection B of  
7 this section is hereby declared, as to the owner, or person in  
8 possession of such lands, to be a Schedule D Group C felony, as  
9 defined by the Oklahoma Sentencing for Drug Crimes Act, and  
10 punishable as such by a fine not to exceed Fifty Thousand Dollars  
11 (\$50,000.00) and imprisonment in the [~~State Penitentiary for not~~  
12 ~~less than two (2) years nor more than life~~] custody of the  
13 Department of Corrections as specified in the Drug Crimes Schedule  
14 of said act. The fine provided for in this subsection shall be  
15 in addition to other punishments provided by law and shall not be  
16 in lieu of other punishment. Any person convicted of a second or  
17 subsequent violation of subsection B of this section is punishable  
18 by a term of imprisonment twice that otherwise authorized and by  
19 twice the fine otherwise authorized. Any sentence shall not be  
20 subject to statutory provisions for suspended sentences, deferred  
21 sentences, or probation, except when the conviction is for a first  
22 offense.

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

1 plants shall be supervised by the Oklahoma State Bureau of  
2 Narcotics and Dangerous Drugs Control. Any destruction or  
3 eradication of the annual growth of such plants supervised by the  
4 Bureau shall be by cutting and burning the same or by destruction  
5 and eradication through applications of herbicides approved for  
6 such purpose by the Department of Agriculture.

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

10 G. In lieu of the eradication procedures provided for in  
11 subsections B and C of this section, all species of plants from  
12 which controlled dangerous substances in Schedules I and II of the  
13 Uniform Controlled Dangerous Substances Act may be derived, may be  
14 disposed of pursuant to the provisions of subsection C of Section  
15 2-505 of this title.

16 SECTION 22. AMENDATORY 68 O.S. 2001, Section 450.8,  
17 is amended to read as follows:

18 Section 450.8 A. Any dealer violating the provisions of  
19 this act, except Section 450.9 of this title, shall pay a civil  
20 penalty of one hundred percent (100%) of the amount of the tax  
21 levied in Section 450.2 of this title in addition to the actual  
22 tax levied in said section.

23 B. Any dealer manufacturing, distributing, producing,  
24 shipping, transporting, importing or possessing any controlled  
25 dangerous substance without affixing the appropriate stamp, upon  
26 conviction, is guilty of a Schedule E felony, as defined by the  
27 Oklahoma Sentencing for Drug Crimes Act, punishable by

1 imprisonment in the [~~State Penitentiary for not more than five (5)~~  
2 ~~years~~] custody of the Department of Corrections as specified in  
3 the Drug Crimes Schedule of said act, or by the imposition of a  
4 fine of not more than Ten Thousand Dollars (\$10,000.00), or by  
5 both such imprisonment and fine.

6 C. Nothing in this act may in any manner provide immunity  
7 for a dealer from criminal prosecution pursuant to Oklahoma law.

8 SECTION 23. REPEALER 63 O.S. 2001, Section 2-419.1,  
9 is hereby repealed.

10 SECTION 24. This act shall become effective November 1,  
11 2011.

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