An Act

ENROLLED HOUSE
BILL NO. 2479

By: Peterson, Sherrer and Goodwin of the House

and

Treat, Brooks and David of the Senate

An Act relating to drugs; amending 63 O.S. 2011, Section 2-402, as amended by Section 10, Chapter 228, O.S.L. 2012 (63 O.S. Supp. 2015, Section 2-402), which relates to the Uniform Controlled Dangerous Substances Act; modifying penalties for certain prohibited acts; and providing an effective date.

SUBJECT: Uniform Controlled Dangerous Substances Act

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-402, as amended by Section 10, Chapter 228, O.S.L. 2012 (63 O.S. Supp. 2015, Section 2-402), is amended to read as follows:

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

2. It shall be unlawful for any person to purchase any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act pursuant to Section 2-313 of this title in an amount or within a time interval other than that permitted by Section 2-313 of this title.

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

a. the packaging of the product,

b. the name of the product, and

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

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

1. Any Schedule I or II substance, except ~~marihuana~~ marijuana or a substance included in subsection D of Section 2-206 of this title, is guilty of a felony punishable by imprisonment for not ~~less than two (2) years nor~~ more than ~~ten (10)~~ five (5) years and by a fine not exceeding Five Thousand Dollars ($5,000.00). A second ~~or subsequent~~ violation of this section with respect to a Schedule I or II substance, except marijuana or a substance included in subsection D of Section 2-206 of this title, is a felony punishable by imprisonment for not ~~less than four (4) years nor~~ more than ~~twenty (20)~~ ten (10) years and by a fine not exceeding Ten Thousand Dollars ($10,000.00). A third or subsequent violation of this section with respect to a Schedule I or II substance, except marijuana or a substance included in subsection D of Section 2-206 of this title, is a felony punishable by imprisonment for not less than four (4) years nor more than fifteen (15) years and by a fine not exceeding Ten Thousand Dollars ($10,000.00);

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

3. Any Schedule III, IV or V substance, marijuana, a substance included in subsection D of Section 2-206 of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act and who, during the period of any court-imposed probationary term or within ten (10) years of the date following the completion of the execution of any sentence or deferred judgment for a violation of this section, commits a second or subsequent violation of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than ~~two (2) years~~ one (1) year nor more than ~~ten (10)~~ five (5) years and by a fine not exceeding Five Thousand Dollars ($5,000.00); or

4. Any Schedule III, IV or V substance, marijuana, a substance included in subsection D of Section 2-206 of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act and who, ten (10) or more years following the date of completion of the execution of any sentence or deferred judgment for a violation of this section, commits a second or subsequent violation of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years and by a fine not exceeding Five Thousand Dollars ($5,000.00).

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

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

2. For a second or subsequent offense, a term of imprisonment not exceeding three times that authorized by the appropriate

provision of this section and the person shall serve a minimum of ninety percent (90%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence, and imposition of a fine not exceeding Ten Thousand Dollars ($10,000.00).

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

SECTION 2. This act shall become effective November 1, 2016.

Passed the House of Representatives the 7th day of March, 2016.

Presiding Officer of the House
of Representatives

Passed the Senate the 20th day of April, 2016.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 21st
day of April, 2016, at 4:49 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 27th
day of April, 2016, at 2:42 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 27th
day of April, 2016, at 3:00 o'clock P. M.
By: