STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1674
By: Murdock

AS INTRODUCED

An Act relating to the Uniform Controlled Dangerous Substances Act; amending 63 O.S. 2011, Section 2-402, as last amended by Section 3, State Question No. 780, Initiative Petition No. 404 (63 O.S. Supp. 2019, Section 2-402), which relates to penalties; providing for felony offense; allowing for certain participation; creating certain felony offense; providing for certain sentencing; updating statutory reference; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-402, as last amended by Section 3, State Question No. 780, Initiative Petition No. 404 (63 O.S. Supp. 2019, 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 Section 2-101 et seq. of this title.

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

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

   a. the packaging of the product,

   b. the name of the product, and

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

B. Any person who violates this section is guilty of a misdemeanor punishable by confinement for not more than one (1) year and by a fine not exceeding One Thousand Dollars ($1,000.00).
third or subsequent violation of this section with respect to any 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 in the custody of the Department of Corrections for not more than five (5) years. Violators of this section may participate in an approved drug court program pursuant to the Oklahoma Drug Court Act as provided for in Section 471.1 et seq. of Title 22 of the Oklahoma Statutes.

C. Any person who violates any provision of this section by possessing or purchasing from a person one or more of the following controlled dangerous substances: methamphetamine, heroin, cocaine or fentanyl, in, 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, recreational center or public park, including state parks and recreational areas, or in the presence of any child under twelve (12) years of age, shall be guilty of a felony and punished by imprisonment in the custody of the Department of Corrections for not more than five (5) years.

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, 2020.

57-2-2592   BG  1/16/2020 3:07:44 PM