An Act relating to public health and safety; amending 63 O.S. 2021, Section 2-402, which relates to the Uniform Controlled Dangerous Substances Act; providing separate penalties for unlawfully possessing controlled dangerous substances; authorizing the referral of violations to certain courts; authorizing municipalities to adopt ordinances; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, 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. 1. Any person who violates this section is guilty of a misdemeanor punishable by confinement for not more than one (1) year and by a fine not exceeding One Thousand Dollars ($1,000.00).

2. Any person who is convicted, receives a deferred sentence, or receives a suspended sentence for an offense provided for in this section, excluding the use of marijuana, and receives a second conviction within ten (10) years for an offense provided for in this
section shall, upon conviction, be guilty of a misdemeanor punishable as such terms are provided for in paragraph 1 of this subsection. In addition, the person may be required to:

a. complete a substance abuse assessment or evaluation and follow the recommendations subsequent thereto, and

b. complete a drug diversion program for up to one (1) year following the date of conviction as ordered by the court. If the person refuses or fails to complete the drug diversion program, the person may be subject to the terms of punishment provided for in paragraph 1 of this subsection.

3. Any person who is convicted, receives a deferred sentence, or receives a suspended sentence for an offense provided for in this section, excluding the use of marijuana, and receives a third or subsequent conviction within ten (10) years for an offense provided for in this section shall, upon conviction, be guilty of a misdemeanor punishable as such terms are provided for in paragraph 1 of this subsection. In addition, the person may be required to:

a. complete a substance abuse assessment or evaluation and follow the recommendations subsequent thereto, and

b. complete a drug diversion program for up to three (3) years following the date of conviction as ordered by the court. If the person refuses or fails to complete the drug diversion program, the person may be subject
to the terms of punishment provided for in paragraph 1
of this subsection.

C. Violations under this section shall be referred to the state
or to a municipal court of record for prosecution. The offense may
be prosecuted in a municipal court not of record if the court has
the discretion to require any of the drug diversion options outlined
in subparagraphs a and b of paragraphs 2 and 3 of subsection B of
this section as a component of a sentence, deferred sentence, or
suspended sentence. Municipal courts may adopt ordinances
consistent with the provisions of this section.

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, 2023.
Passed the House of Representatives the 21st day of March, 2023.

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Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of __________, 2023.

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Presiding Officer of the Senate