

2022 Drug Crimes Cheat Sheet

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63 O.S. 2-415 PENALTIES—DRUG TRAFFICKING

BEWARE: (1) *There is no appeal bond for a drug trafficking conviction.*

(2) *Enhanced penalties if selling to a person under 18 or a person under 12 or near a school.*

(3) **REVOCATION OF DRIVING PRIVILEGES.** *For all 63 O.S. 2-415 crimes if the crime occurred in a vehicle, revocation of driving privileges is mandatory. 47 O.S. 6-205 (3) "Driving during the commission of a felony" or (6) "A felony conviction for unlawfully distributing, dispensing, manufacturing, trafficking, attempting or conspiring to distribute, dispense, manufacture, or traffic a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act while driving a motor vehicle"*

(4) Deferred & Suspended are **allowed** unless noted below. 2018 Okla. Sess. Law Serv. Ch. 130 (S.B. 793) (WEST) struck the prohibition on suspended and deferred sentences.

63 O.S. 2-415(C) provides. See below the chart for 2-415(D).

| Drug | Amount | Punishment First Offense | Punishment Second Offense | Punishment Third or More Offenses | Fines |
|--|-------------------|---|--|--|---------------|
| Marihuana | 25 lbs or more | Zero to 20yrs | 4 yrs to Life Must serve 50% | 20yrs –Life Must serve 50% | \$25K-\$100K |
| Aggravated Trafficking Marihuana | a1000 lbs or more | Zero to 20 yrs at 85% | 4 yrs to Life At 85% | 20yrs –Life at 85% | \$100K-\$500K |
| Cocaine or coca leaves | 28 gr or more | Zero to 20 yrs \$25K-\$100K | 4 yrs to Life At 50% \$100K-\$500K | 20 yrs to Life At 50% \$100K-\$500K | See other |
| Cocaine or coca leaves or cocaine base (crack) | 300 gr or more | Zero to 20 yrs \$100K-\$500K | 4 yrs to Life At 50% \$100k-\$500k | 20 yrs to Life At 50% \$100k-\$500k | See other |
| Aggravated Trafficking Cocaine or coca leaves or cocaine base (crack) | 450 gr or more | Zero to 20 yrs At 85% \$100k-\$500k | 4 yrs to Life At 85% \$100k-\$500k | 20 yrs to Life At 85% \$100K-\$500K | See other |

| Drug | Amount | Punishment First Offense | Punishment Second Offense | Punishment Third or More Offenses | Fines |
|---|-------------------------|--|---|--|----------------|
| Heroin | 10 gr or more | Zero to 20 yrs | 4 yrs to Life At 50% | 20 yrs to Life at 50% | \$25K- \$50K |
| Heroin | 28 gr or more | Zero to 20 yrs \$50K-\$500K | 4 yrs to Life At 50% \$50K-\$500K | 20 yrs to Life At 50% \$50K-\$500K | See other |
| Amphetamine or methamphetamine | 20 gr or more | Zero to 20 yrs \$25K-\$200K | 4 yrs to Life At 50% \$25K-\$200K | 20yrs to Life At 50% \$25K-\$200K | See Other |
| Amphetamine or methamphetamine | 200 gr or more | Zero to 20 yrs \$50K-\$500K | 4 yrs to Life At 50% \$50k-\$500k | 20yrs to Life At 50% \$50k-\$500k | See Other |
| Aggravated Trafficking Amphetamine or methamphetamine | 450 gr or more | Zero to 20 yrs At 85% \$50k-\$500k | 4 yrs to Life At 85% \$50k-\$500k | 20yrs to Life At 85% \$50k-\$500k | See Other |
| Lysergic acid diethylamide (LSD) | 1 gr or more | Zero to 20 yrs | | | \$50K- \$100K |
| Lysergic acid diethylamide (LSD) | 10 gr or more | 2 yrs to Life At 85% | | | \$100K- \$250K |
| Phencyclidine (PCP) | 20 gr or more | Zero to 20 yrs | | | \$20K- \$50K |
| Phencyclidine (PCP) | 150 gr or more | 2 yrs to Life At 85% | | | \$50K- \$250K |
| 3,4-Methylenedioxy methamphetamine, commonly known as "ecstasy" or MDMA | 30 tablets or 10 gr | Zero to 20 yrs | | | \$25K- \$100K |
| 3,4-Methylenedioxy methamphetamine, commonly known as "ecstasy" or MDMA | 100 tablets or 30 grams | 2 yrs to Life | | | \$100K- \$500K |
| Morphine | 1K gr or more | Zero to 20 yrs | | | \$100K- \$500K |

| Drug | Amount | Punishment First Offense | Punishment Second Offense | Punishment Third or More Offenses | Fines |
|--|------------------|---------------------------------|--|--|----------------|
| Oxycodone | 400 gr or more | Zero to 20 yrs | | | \$100K- \$500K |
| Hydrocodone | 3,750 gr or more | Zero to 20 yrs | | | \$100K- \$500K |
| Benzodiazepine | 500 gr or more | Zero to 20yrs | | | \$100K- \$500K |
| Fentanyl and its analogs and derivatives | 1 gr or more | Zero to 20 yrs \$100K-\$250K | 4 yrs to Life At 50% \$100K-\$500K | 20 yrs to Life At 50% \$100K-\$500K | See other |

63 O.S. 2-415(D) Enhanced Penalties

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

1. For trafficking, a first violation of this section, a term of imprisonment in the custody of the Department of Corrections not to exceed twenty (20) years;
2. For trafficking, a second violation of this section, a term of imprisonment in the Department of Corrections of not less than four (4) years nor more than life, for which the person shall serve fifty percent (50%) of the sentence before being eligible for parole consideration;
3. For trafficking, a third or subsequent violation of this section, a term of imprisonment in the custody of the Department of Corrections of not less than twenty (20) years nor more than life, of which the person shall serve fifty percent (50%) of the sentence before being eligible for parole consideration.

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

If the person is convicted of aggravated trafficking, the person shall serve eighty-five percent (85%) of such sentence before being eligible for parole consideration.

63 O.S. 2-401 PENALTIES Possession w/ Intent

BEWARE: (1) *Enhanced penalties if selling to a person under 18 or a person under 12 or near a school.*

(2) **REVOCATION OF DRIVING PRIVILEGES.** *If the crime occurred in a vehicle, revocation of driving privileges is mandatory. 47 O.S. 6-205 (3 & (6)*

■ 63 O.S. 2-401(D) **SUSPENDED & DEFERRED ALLOWED.**

■ 63 O.S. 2-410 conditional discharge for first offense.

■ 22 O.S. 985.1 **SAFETY VALVE** (avoid mandatory min. sentences-except 85% or trafficking)

■ 21 O.S. 64 **GENERAL FINE STATUTE** up to \$1000 (misd) or up to \$10,000 (felony).

| Drug | Punishment First Offense | Punishment Second Offense | Punishment Third or More Offenses | Fines |
|---|--------------------------|---------------------------|-----------------------------------|---|
| Schedule 1 Drugs (except marijuana) <ul style="list-style-type: none"> • Heroin (diacetylmorphine) (<) • LSD (Lysergic acid diethylamide(<) • Mescaline (Peyote) • GHB (gamma-hydroxybutyric acid) • Ecstasy (MDMA or 3,4-Methylenedioxymethamphetamine) (<) • Psilocybin • Synthetic marijuana and analogs (Spice, K2) • Methaqualone (Quaalude) • Khat (Cathinone) • Bath Salts (MDPV or 3,4-methylenedioxypyrovalerone) | Zero to 7yrs | Zero to 14yrs | Zero to 20yrs | Up to \$100K for First Offense. Not listed for Second or subsequent, So limited to \$10K by general statute. |
| Schedule 2 Drugs Opioids including specifically Morphine (<) Oxycodone (<) Hydrocodone (<) Fentanyl (<) Amphetamine Methamphetamine Cocaine Cocaine Base (crack) PCP (Phencyclidine, angel dust) DXM (Dextromethorpha) | Zero to 7yrs | Zero to 14yrs | Zero to 20yrs | Up to \$100K for First Offense. ----- Not listed for subsequent, So limited to \$10K by general statute. |

| Drug | Punishment First Offense | Punishment Second Offense | Punishment Third or More Offenses | Fines |
|--|--|--|--|--|
| Schedule 3, 4 & 5 Drugs And Marijuana Anabolic Steroids Benzodiazepine (<500 gr) Flunitrazaepam (roofies) Hashish Ketamine Marijuana/Marihuana Opium Salvia Divinorum | Zero – 5yrs | Zero to 10yrs | Zero to 15yrs | Up to \$10K under general fine statute. |
| Imitation Drugs | Misdemeanor Zero to 1yr And up to \$1K fine | Felony Zero to 2yrs and up to \$5K fine | | |

63 O.S. 2-401(C) MANUFACTURING and DISTRIBUTING CDS & Synthetic Drugs

63 O.S. 2-401(C) allows deferred and suspended sentences

| Crime | Punishment First Offense | Punishment Second Offense | Punishment Third or More Offenses |
|--|---|--|--|
| Manufacturing or Distributing CDS or synthetic drugs See habitual offender 21 O.S. 51.1 | Zero to 10yrs Fine up to \$25K | 2 to 20 yrs; Fines under general fine statute up to \$10K; See habitual offender | 10yrs to Life, which shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment; Fines under general fine statute up to \$10K; habitual offender laws. |

63 O.S. 2-401(E) USING A MINOR (UNDER 18 YEARS OLD) TO DISTRIBUTE, TRANSPORT WITH INTENT TO DISTRIBUTE OR CULTIVATE CDS. See also 63 O.S. 2-419.1.

| | Punishment First Offense | Punishment Second Offense | Punishment Third or More Offenses |
|--|--------------------------------|---------------------------------|--------------------------------------|
| Using a minor in a drug crime No fine listed, so up to general \$10K | 2 – 10 yrs | 4 to 20 yrs | 10yrs to Life |

**63 O.S. 2-401(F) TRANSPORTING or POSSESSION WITH INTENT TO DISTRIBUTE
WITHIN 2K FEET OF A SCHOOL, PUBLIC HOUSING, DAY-CARE, OR PARK**

| Drug | Punishment First Offense | Punishment Second Offense |
|---|--|--|
| Schedule 1 Drugs (except marijuana) <ul style="list-style-type: none"> • Heroin (diacetylmorphine) (<) • LSD (Lysergic acid diethylamide(<) • Mescaline (Peyote) • GHB (gamma-hydroxybutyric acid) • Ecstasy (MDMA or 3,4-Methylenedioxymethamphetamine) (<) • Psilocybin • Synthetic marijuana and analogs (Spice, K2) • Methaqualone (Quaalude) • Khat (Cathinone) • Bath Salts (3,4-methylenedioxypyrovalerone or MDPV) | Zero to 14yrs Up to \$200K Habitual offender 21 O.S. 51.1 applies | Zero to 28 yrs; No fine listed, so limited to general fine statute up to \$10K; No deferred or suspended sentences; Habitual offender 21 O.S. 51.1 applies |
| Schedule 2 Drugs Opioids including specifically Morphine (<) Oxycodone (<) Hydrocodone (<) Fentanyl (<) Amphetamine Methamphetamine Cocaine Cocaine Base (crack) PCP (Phencyclidine, angel dust) DXM (Dextromethorpha) | Zero to 14yrs Up to \$200K Habitual offender 21 O.S. 51.1 applies | Zero to 28 yrs; No fine listed, so limited to general fine statute up to \$10K; No deferred or suspended sentences; Habitual offender 21 O.S. 51.1 applies |
| Schedule 3, 4 & 5 Drugs And Marijuana Anabolic Steroids Benzodiazepine (<500 gr) Flunitrazaepam (roofies) Hashish Ketamine Marijuana/Marihuana Opium Salvia Divinorum | Zero – 10yrs Up to \$40K | Second Offense Zero to 20 yrs; General fine; No deferred or suspended sentences Third Offense Zero to 30 yrs General fine No deferred or suspended sentences |
| Imitation Drugs | Felony Zero to 2yr And \$2K fine | Felony Zero to 4yrs and \$10K fine; No deferred or suspended sentences |

63 O.S. 2-401(G) MANUFACTURING CDS OR POSSESSION OF PRECURSOR MATERIALS

Applies to manufacturing or attempts to manufacture.

| DRUG | PUNISHMENT RANGE | FINE |
|---|---|----------------------|
| Manufacturing or Possession of Precursor Materials | 7yrs to Life | Not less than \$50K |
| Aggravated Manufacturing or Possession of Precursor Materials or Attempt to Manufacture <ul style="list-style-type: none"> • Heroin 1 Kilo of a mixture containing • Cocaine 5 Kilos of a mixture containing • Cocaine Base (crack) 50 gr or more of a mixture containing • PCP 100 grams or 1 Kilo of a mixture or substance containing a detectable amount of phencyclidine (PCP) • LSD 10 gr of a mixture containing • Fentanyl 400 grams or more of a mixture or substance containing a detectable amount or 100 grams or more of a mixture or substance containing a detectable amount of any analogue • Marijuana 1K Kilos of a mixture or substance containing a detectable amount of marihuana or one thousand (1000) or more marihuana plants regardless of weight • Methamphetamine (Meth) 50 gr or 500 grams or more of a mixture or substance containing a detectable amount | 20yrs to Life At 85% No suspended or deferred sentences For a second offense, See habitual offender 21 O.S. 51.1 | Not less than \$50K |
| • Pseudoephedrine or ephedrine or any mixture containing | 14 yrs to Life | Not less than \$100K |

63 O.S. 2-402 SIMPLE POSSESSION OF CDS

| Drug | Amount | Punishment First Offense | Punishment Second Offense | Punishment Third or More Offenses |
|--|--------|---|---|---|
| Marihuana, Schedule 1, 2, 3 and 4 including: Amphetamine Cocaine Meth Opiates Ecstasy | | Zero – 1yr \$1K \$100 Trauma fee Misdemeanor | Zero – 1yr \$1K \$100 Trauma fee Misdemeanor | Zero – 1yr \$1K \$100 Trauma fee Misdemeanor |

Note, there are currently two competing statutes, but it is universally agreed that the misdemeanor statute applies based on State Question 780.

63 O.S. 2-405 Possession of Paraphernalia

| Crime | Punishment First Offense | Punishment Second Offense | Punishment Third or More Offenses |
|---------------------------------|---------------------------------------|-----------------------------------|------------------------------------|
| Possession of paraphernalia | Zero – 1yr \$1K Misdemeanor | Zero – 1yr \$5K Misdemeanor | Zero – 1yr \$10K Misdemeanor |
| Paraphernalia involving a minor | Zero to 2 yrs Up to \$1K Felony | | |

OTHER COMMON DRUG CRIMES

63 O.S. 2-403 (A) Larceny & (B) Robbery of Drugs

63 O.S. 2-404(A)(6) Maintaining Place/House for Drugs

63 O.S. 2-407 Obtaining Drugs or Rx by Fraud

63 O.S. 2-408 Drug Conspiracy (same penalty as substantive)

63 O.S. 2-509 Cultivation of Drugs

Drug Crimes by Dr. or Pharmacist, 63 O.S. 2-404(A) & 2-406