

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2375*
Committee Substitute Favorable 7/18/90
Third Edition Engrossed 7/19/90

Short Title: 1990 Omnibus Drug Act.

(Public)

Sponsors:

Referred to:

June 6, 1990

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE 1990 OMNIBUS DRUG ACT.
3 The General Assembly of North Carolina enacts:

4 Section 1. This act shall be known as the Omnibus Drug Act of 1990.
5 --TO PROVIDE THAT THE INVESTIGATING LAW ENFORCEMENT AGENCY
6 SHALL RECEIVE SEVENTY-FIVE PERCENT OF THE MONIES COLLECTED BY
7 AN ASSESSMENT UNDER THE CONTROLLED SUBSTANCE TAX LAW.

8 Sec. 2. Effective upon ratification and retroactive to January 1, 1990, G.S.
9 105-113.111 reads as rewritten:

10 "§ 105-113.111. Assessments.

11 (a) Notwithstanding any other provision of law, an assessment against a dealer
12 who possesses a controlled substance to which a stamp has not been affixed as required
13 by this Article shall be made as provided in this section. The Secretary shall assess a
14 tax, applicable penalties, and interest based on personal knowledge or information
15 available to the Secretary. The Secretary shall notify the dealer in writing of the amount
16 of the tax, penalty, and interest due, and demand its immediate payment. The notice
17 and demand shall be either mailed to the dealer at the dealer's last known address or
18 served on the dealer in person. If the dealer does not pay the tax, penalty, and interest
19 immediately upon receipt of the notice and demand, the Secretary shall collect the tax,
20 penalty, and interest pursuant to the procedure set forth in G.S. 105-241.1(g) for
21 jeopardy assessments or the procedure set forth in G.S. 105-242, including causing
22 execution to be issued immediately against the personal property of the dealer unless the

1 dealer files with the Secretary a bond in the amount of the asserted liability for the tax,
2 penalty, and interest. The Secretary shall use all means available to collect the tax,
3 penalty, and interest from any property in which the dealer has a legal, equitable, or
4 beneficial interest. The dealer may seek review of the assessment as provided in Article
5 9 of this Chapter.

6 (b) Of the monies collected pursuant to subsection (a), seventy-five percent
7 (75%) shall be remitted to the law enforcement agency that conducted the investigation
8 of the dealer that led to the assessment under subsection (a). If more than one law
9 enforcement agency conducted the investigation, the Secretary of the Department of
10 Revenue shall determine the equitable pro rata share for each agency based on the
11 contribution each agency made to the investigation."

12 --TO REQUIRE CONVICTED DRUG OFFENDERS TO PAY A SPECIAL COURT
13 COST OF ONE HUNDRED DOLLARS TO PAY FOR THE COSTS OF IMPROVED
14 LAB FACILITIES AT THE STATE BUREAU OF INVESTIGATION.

15 Sec. 3. Effective upon ratification and applying to offenses committed on or
16 after that date, G.S. 90-95.3 reads as rewritten:

17 "**§ 90-95.3. Restitution to law-enforcement agencies for undercover purchases;**
18 **purchases; restitution for drug analyses.**

19 (a) When any person is convicted of an offense under this Article, the court may
20 order him to make restitution to any law-enforcement agency for reasonable
21 expenditures made in purchasing controlled substances from him or his agent as part of
22 an investigation leading to his conviction.

23 (b) When any person is convicted of an offense under this Article, the court may
24 order him to make restitution in the sum of one hundred dollars (\$100.00) to the State
25 for the expense of analyzing any controlled substance possessed by him or his agent as
26 part of an investigation leading to his conviction. Any funds received under this section
27 shall be deposited in the General Fund and to be kept in a Special fund and spent for the
28 designated purpose."

29 --TO EXTEND THE LAW PERMITTING GRAND JURIES TO INVESTIGATE
30 DRUG TRAFFICKING.

31 Sec. 4. Section 6 of Chapter 843, Session Laws of 1985, as amended by
32 Chapter 1040 of the 1987 Session Laws is amended by deleting "shall expire October 1,
33 1991" and substituting "shall expire October 1, 1993".

34 --TO REQUIRE A MANDATORY MINIMUM SENTENCE FOR POSSESSION OR
35 DISTRIBUTION OF PRECURSOR CHEMICALS WITH INTENT TO
36 MANUFACTURE ILLEGAL CONTROLLED SUBSTANCE.

37 Sec. 5. Effective October 1, 1990, and applying to offenses occurring on or
38 after that date, G.S. 90-95 is amended by adding two new subsections to read:

39 "(d1) Except as authorized by this Article, it is unlawful for any person to:

40 (1) Possess an immediate precursor chemical with intent to manufacture a
41 controlled substance; or

42 (2) Possess or distribute an immediate precursor chemical knowing, or
43 having reasonable cause to believe, that the immediate precursor
44 chemical will be used to manufacture a controlled substance.

1 Any person who violates this subsection shall be punished as a Class G felon and shall
 2 be sentenced to a term of at least 10 years in the State's prison and shall be fined not less
 3 than twenty-five thousand dollars (\$25,000).

4 (d2) The immediate precursor chemicals to which subsection (d1) of this section
 5 applies are those immediate precursor chemicals designated by the Commission
 6 pursuant to its authority under G.S. 90-88, and the following (until otherwise specified
 7 by the Commission):

- 8 (1) Anthranilic acid.
- 9 (2) Benzyl cyanide.
- 10 (3) Chloroephedrine.
- 11 (4) Chloropseudoephedrine.
- 12 (5) D-lysergic acid.
- 13 (6) Ephedrine.
- 14 (7) Ergonovine maleate.
- 15 (8) Ergotamine tartrate.
- 16 (9) Ethyl Malonate.
- 17 (10) Ethylamine.
- 18 (11) Isosafrole.
- 19 (12) Malonic acid.
- 20 (13) Methylamine.
- 21 (14) N-acetylanthranilic acid.
- 22 (15) N-ethylephedrine.
- 23 (16) N-ethylepseudoephedrine.
- 24 (17) N-methylephedrine.
- 25 (18) N-methylpseudoephedrine.
- 26 (19) Norpseudoephedrine.
- 27 (20) Phenyl-2-propane.
- 28 (21) Phenylacetic acid.
- 29 (22) Phenylpropanolamine.
- 30 (23) Piperidine.
- 31 (24) Piperonal.
- 32 (25) Propionic anhydride.
- 33 (26) Pseudoephedrine.
- 34 (27) Pyrrolidine.
- 35 (28) Safrole.
- 36 (29) Thionylchloride."

37 --TO PROVIDE ENHANCED MANDATORY MINIMUM SENTENCES FOR
 38 HABITUAL DRIVING WHILE IMPAIRED VIOLATORS.

39 Sec. 6. Effective October 1, 1990, G.S. 20-179(c) reads as rewritten:

40 "(c) Determining Existence of Grossly Aggravating ~~Factors~~ Factors; Habitual
 41 Offender. -- At the sentencing hearing, based upon the evidence presented at trial and in
 42 the hearing, the judge must first determine whether there are any grossly aggravating
 43 factors in the case. If the defendant has been convicted of two ~~or more~~ prior offenses
 44 involving impaired ~~driving~~ driving ~~if driving and~~ the convictions occurred within seven years

1 before the date of the offense for which he is being sentenced, the judge must impose
2 the Level One punishment under subsection (g). If the defendant has been convicted of
3 three or more prior offenses involving impaired driving and the convictions occurred
4 within seven years before the date of the offense for which he is being sentenced, the
5 defendant must be known as a habitual offender and the judge must impose the Level
6 One punishment under subsection (g1). The judge must also impose the Level One
7 punishment under subsection (g) if he determines that two or more of the following
8 grossly aggravating factors apply:

- 9 (1) A single conviction for an offense involving impaired driving, if the
10 conviction occurred within seven years before the date of the offense
11 for which the defendant is being sentenced.
- 12 (2) Driving by the defendant at the time of the offense while his driver's
13 license was revoked under G.S. 20-28, and the revocation was an
14 impaired driving revocation under G.S. 20-28.2(a).
- 15 (3) Serious injury to another person caused by the defendant's impaired
16 driving at the time of the offense.

17 If the judge determines that only one of the above grossly aggravating factors applies,
18 he must impose the Level Two punishment under subsection (h). In imposing a Level
19 One or Two punishment, the judge may consider the aggravating and mitigating factors
20 in subsections (d) and (e) in determining the appropriate sentence. If there are no
21 grossly aggravating factors in the case, the judge must weigh all aggravating and
22 mitigating factors and impose punishment as required by subsection (f)."

23 Sec. 7. Effective October 1, 1990, G.S. 20-179 is amended by adding a new
24 subsection to read:

25 "(g1) Level One Punishment; Habitual Offender. – A habitual offender subject to
26 Level One Punishment shall be fined two thousand dollars (\$2,000) and shall be
27 sentenced to a term of imprisonment of two years. Notwithstanding any other provision
28 of law, the sentence so imposed shall not be suspended, the habitual offender shall not
29 be placed on probation, and the actual time served pursuant to such sentence shall not be
30 reduced for good time, gain time, or by early parole. Sentences imposed upon a
31 habitual offender shall run consecutively with and shall commence at the expiration of
32 any sentence being served by the habitual offender sentenced hereunder."

33 --TO PROVIDE THAT REGISTERS OF DEEDS SHALL DISTRIBUTE WITH
34 MARRIAGE LICENSES INFORMATION ON POTENTIAL HARM TO CHILDREN
35 FROM PRE-BIRTH EXPOSURE TO DRUG AND ALCOHOL ABUSE.

36 Sec. 8. Effective January 1, 1991, G.S. 161-11.1 reads as rewritten:

37 "**§ 161-11.1. Fees for Children's Trust Fund.**

38 (a) Five dollars (\$5.00) of each fee collected by a register of deeds on or after
39 October 1, 1983, for issuance of a marriage license pursuant to G.S. 161-10(a)(2) shall
40 be forwarded, as soon as practical but no later than 60 days ~~of~~ after collection by the
41 register of deeds, to the county finance officer, who shall forward same to the State
42 Treasurer for deposit in the Children's Trust Fund.

43 (b) The register of deeds shall distribute with each marriage license issued a
44 pamphlet promoting the prevention of fetal alcohol syndrome, cocaine exposure, and

1 other potential harm to the fetus from drug and alcohol abuse by the mother. The
2 pamphlet to be distributed shall be prepared and paid for by the Department of
3 Environment, Health, and Natural Resources, which shall forward the requisite number
4 of copies to the register of deeds of each county."

5 Sec. 9. Except as otherwise provided herein, this act is effective upon
6 ratification.