

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 258

Short Title: Drug Traffic Sentencing Changes.

(Public)

Sponsors: Senator Allran.

Referred to: Judiciary II.

March 25, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON CONVICTED OF DRUG TRAFFICKING MAY NOT RECEIVE PROBATION, A SUSPENDED SENTENCE, GOOD TIME, GAIN TIME, OR EARLY PAROLE, AND TO REQUIRE A REPRESENTATION FROM THE DISTRICT ATTORNEY THAT A DEFENDANT HAS RENDERED SUBSTANTIAL ASSISTANCE BEFORE THE COURT MAY CONSIDER A REDUCTION OF THE DEFENDANT'S MANDATORY PRISON TERM OR FINE FOR A DRUG TRAFFICKING CONVICTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-95(h) reads as rewritten:

"(h) Notwithstanding any other provision of law, the following provisions apply except as otherwise provided in this Article.

(1) Any person who sells, manufactures, delivers, transports, or possesses in excess of 50 pounds (avoirdupois) of marijuana shall be guilty of a felony which felony shall be known as 'trafficking in marijuana' and if the quantity of such substance involved:

- a. Is in excess of 50 pounds, but less than 100 pounds, such person shall be punished as a Class H felon and shall be sentenced to a term of at least five years in the State's prison and shall be fined not less than five thousand dollars (\$5,000);
b. Is 100 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class G felon and shall be sentenced to a term of at least seven years in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);

- 1 c. Is 2,000 pounds or more, but less than 10,000 pounds, such
2 person shall be punished as a Class F felon and shall be
3 sentenced to a term of at least 14 years in the State's prison and
4 shall be fined not less than fifty thousand dollars (\$50,000);
- 5 d. Is 10,000 pounds or more, such person shall be punished as a
6 Class D felon and shall be sentenced to a term of at least 35
7 years in the State's prison and shall be fined not less than two
8 hundred thousand dollars (\$200,000).
- 9 (2) Any person who sells, manufactures, delivers, transports, or possesses
10 1,000 tablets, capsules or other dosage units, or the equivalent
11 quantity, or more of methaqualone, or any mixture containing such
12 substance, shall be guilty of a felony which felony shall be known as
13 'trafficking in methaqualone' and if the quantity of such substance or
14 mixture involved:
- 15 a. Is 1,000 or more dosage units, or equivalent quantity, but less
16 than 5,000 dosage units, or equivalent quantity, such person
17 shall be punished as a Class G felon and shall be sentenced to a
18 term of at least seven years in the State's prison and shall be
19 fined not less than twenty-five thousand dollars (\$25,000);
- 20 b. Is 5,000 or more dosage units, or equivalent quantity, but less
21 than 10,000 dosage units, or equivalent quantity, such person
22 shall be punished as a Class F felon and shall be sentenced to a
23 term of at least 14 years in the State's prison and shall be fined
24 not less than fifty thousand dollars (\$50,000);
- 25 c. Is 10,000 or more dosage units, or equivalent quantity, such
26 person shall be punished as a Class D felon and shall be
27 sentenced to a term of at least 35 years in the State's prison and
28 shall be fined not less than two hundred thousand dollars
29 (\$200,000).
- 30 (3) Any person who sells, manufactures, delivers, transports, or possesses
31 28 grams or more of cocaine and any salt, isomer, salts of isomers,
32 compound, derivative, or preparation thereof, or any coca leaves and
33 any salt, isomer, salts of isomers, compound, derivative, or preparation
34 of coca leaves, and any salt, isomer, salts of isomers, compound,
35 derivative or preparation thereof which is chemically equivalent or
36 identical with any of these substances (except decocanized coca leaves
37 or any extraction of coca leaves which does not contain cocaine) or
38 any mixture containing such substances, shall be guilty of a felony,
39 which felony shall be known as 'trafficking in cocaine' and if the
40 quantity of such substance or mixture involved:
- 41 a. Is 28 grams or more, but less than 200 grams, such person shall
42 be punished as a Class G felon and shall be sentenced to a term
43 of at least seven years in the State's prison and shall be fined not
44 less than fifty thousand dollars (\$50,000);

- 1 b. Is 200 grams or more, but less than 400 grams, such person
2 shall be punished as a Class F felon and shall be sentenced to a
3 term of at least 14 years in the State's prison and shall be fined
4 not less than one hundred thousand dollars (\$100,000);
- 5 c. Is 400 grams or more, such person shall be punished as a Class
6 D felon and shall be sentenced to a term of at least 35 years in
7 the State's prison and shall be fined at least two hundred fifty
8 thousand dollars (\$250,000).
- 9 (3a) Any person who sells, manufactures, delivers, transports, or possesses
10 1,000 tablets, capsules or other dosage units, or the equivalent
11 quantity, or more of amphetamine, its salts, optical isomers, and salts
12 of its optical isomers or any mixture containing such substance, shall
13 be guilty of a felony which felony shall be known as 'trafficking in
14 amphetamine' and if the quantity of such substance or mixture
15 involved:
- 16 a. Is 1,000 or more dosage units, or equivalent quantity, but less
17 than 5,000 dosage units, or equivalent quantity, such person
18 shall be punished as a Class G felon and shall be sentenced to a
19 term of at least seven years in the State's prison and shall be
20 fined not less than twenty-five thousand dollars (\$25,000);
- 21 b. Is 5,000 or more dosage units, or equivalent quantity, but less
22 than 10,000 dosage units, or equivalent quantity, such person
23 shall be punished as a Class F felon and shall be sentenced to a
24 term of at least 14 years in the State's prison and shall be fined
25 not less than fifty thousand dollars (\$50,000);
- 26 c. Is 10,000 or more dosage units, or equivalent quantity, such
27 person shall be punished as a Class D felon and shall be
28 sentenced to a term of at least 35 years in the State's prison and
29 shall be fined not less than two hundred thousand dollars
30 (\$200,000).
- 31 (3b) Any person who sells, manufactures, delivers, transports, or possesses
32 28 grams or more of methamphetamine shall be guilty of a felony
33 which felony shall be known as 'trafficking in methamphetamine' and
34 if the quantity of such substance or mixture involved:
- 35 a. Is 28 grams or more, but less than 200 grams, such person shall
36 be punished as a Class G felon and shall be sentenced to a term
37 of at least seven years in the State's prison and shall be fined not
38 less than fifty thousand dollars (\$50,000);
- 39 b. Is 200 grams or more, but less than 400 grams, such person
40 shall be punished as a Class F felon and shall be sentenced to a
41 term of at least 14 years in the State's prison and shall be fined
42 not less than one hundred thousand dollars (\$100,000);
- 43 c. Is 400 grams or more, such person shall be punished as a Class
44 D felon and shall be sentenced to a term of at least 35 years in

1 the State's prison and shall be fined at least two hundred fifty
2 thousand dollars (\$250,000).

3 (4) Any person who sells, manufactures, delivers, transports, or possesses
4 four grams or more of opium or opiate, or any salt, compound,
5 derivative, or preparation of opium or opiate (except apomorphine,
6 nalbuphine, analoxone and naltrexone and their respective salts),
7 including heroin, or any mixture containing such substance, shall be
8 guilty of a felony which felony shall be known as 'trafficking in opium
9 or heroin' and if the quantity of such controlled substance or mixture
10 involved:

11 a. Is four grams or more, but less than 14 grams, such person shall
12 be punished as a Class F felon and shall be sentenced to a term
13 of at least 14 years in the State's prison and shall be fined not
14 less than fifty thousand dollars (\$50,000);

15 b. Is 14 grams or more, but less than 28 grams, such person shall
16 be punished as a Class E felon and shall be sentenced to a term
17 of at least 18 years in the State's prison and shall be fined not
18 less than one hundred thousand dollars (\$100,000);

19 c. Is 28 grams or more, such person shall be punished as a Class C
20 felon and shall be sentenced to a term of at least 45 years in the
21 State's prison and shall be fined not less than five hundred
22 thousand dollars (\$500,000).

23 (4a) Any person who sells, manufactures, delivers, transports, or
24 possesses 100 tablets, capsules, or other dosage units, or the
25 equivalent quantity, or more, of Lysergic Acid Diethylamide, or any
26 mixture containing such substance, shall be guilty of a felony, which
27 felony shall be known as 'trafficking in Lysergic Acid
28 Diethylamide'. If the quantity of such substance or mixture
29 involved:

30 a. Is 100 or more dosage units, or equivalent quantity, but less
31 than 500 dosage units, or equivalent quantity, such person shall
32 be punished as a Class G felon and shall be sentenced to a term
33 of at least seven years in the State's prison and shall be fined not
34 less than twenty-five thousand dollars (\$25,000);

35 b. Is 500 or more dosage units, or equivalent quantity, but less
36 than 1,000 dosage units, or equivalent quantity, such person
37 shall be punished as a Class F felon and shall be sentenced to a
38 term of at least 14 years in the State's prison and shall be fined
39 not less than fifty thousand dollars (\$50,000);

40 c. Is 1,000 or more dosage units, or equivalent quantity, such
41 person shall be punished as a Class D felon and shall be
42 sentenced to a term of at least 35 years in the State's prison and
43 shall be fined not less than two hundred thousand dollars
44 (\$200,000).

- 1 (5) ~~Except as provided in this subdivision, a~~ A person being sentenced under
2 this subsection may not receive a suspended sentence or be placed on
3 probation. The actual time served pursuant to a sentence imposed
4 under this subsection may not be reduced by good time, gain time, or
5 by early parole. A person sentenced under this subsection as a
6 committed youthful offender shall be eligible for release or parole no
7 earlier than that person would have been had he been sentenced under
8 this subsection as a regular offender. The sentencing judge may
9 reduce the ~~fine, or impose a prison term less than the applicable~~ mandatory
10 minimum fine or the mandatory minimum prison term ~~provided by~~
11 required under this subsection, ~~or suspend the prison term imposed and~~
12 ~~place a person on probation when or both, when the district attorney~~
13 represents to the court that such person has, to the best of his
14 knowledge, provided substantial assistance in the identification, arrest,
15 or conviction of any accomplices, accessories, co-conspirators, or
16 principals if the sentencing judge enters in the record a finding that the
17 person to be sentenced has rendered such substantial assistance.
- 18 (6) Sentences imposed pursuant to this subsection shall run consecutively
19 with and shall commence at the expiration of any sentence being
20 served by the person sentenced hereunder."

21 Sec. 2. This act becomes effective October 1, 1991, and applies to offenses
22 committed on or after that date.