

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 458

Short Title: Amend Marijuana Trafficking Amts.

(Public)

Sponsors: Senator Shaw of Guilford.

Referred to: Judiciary.

March 24, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE OFFENSE OF TRAFFICKING IN MARIJUANA BY
CHANGING THE AMOUNT OF MARIJUANA THAT WOULD BE
CONSIDERED TRAFFICKING.

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~~10 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~~10 pounds, but less than 100 pounds, such
person shall be punished as a Class H felon and shall be
sentenced to a minimum term of 25 months and a maximum term
of 30 months 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
minimum term of 35 months and a maximum term of 42 months

- 1 in the State's prison and shall be fined not less than twenty-five
2 thousand dollars (\$25,000);
- 3 c. Is 2,000 pounds or more, but less than 10,000 pounds, such
4 person shall be punished as a Class F felon and shall be
5 sentenced to a minimum term of 70 months and a maximum term
6 of 84 months in the State's prison and shall be fined not less than
7 fifty thousand dollars (\$50,000);
- 8 d. Is 10,000 pounds or more, such person shall be punished as a
9 Class D felon and shall be sentenced to a minimum term of 175
10 months and a maximum term of 219 months in the State's prison
11 and shall be fined not less than two hundred thousand dollars
12 (\$200,000).
- 13 (2) Any person who sells, manufactures, delivers, transports, or possesses
14 1,000 tablets, capsules or other dosage units, or the equivalent quantity,
15 or more of methaqualone, or any mixture containing such substance,
16 shall be guilty of a felony which felony shall be known as 'trafficking in
17 methaqualone' and if the quantity of such substance or mixture
18 involved:
- 19 a. Is 1,000 or more dosage units, or equivalent quantity, but less
20 than 5,000 dosage units, or equivalent quantity, such person shall
21 be punished as a Class G felon and shall be sentenced to a
22 minimum term of 35 months and a maximum term of 42 months
23 in the State's prison and shall be fined not less than twenty-five
24 thousand dollars (\$25,000);
- 25 b. Is 5,000 or more dosage units, or equivalent quantity, but less
26 than 10,000 dosage units, or equivalent quantity, such person
27 shall be punished as a Class F felon and shall be sentenced to a
28 minimum term of 70 months and a maximum term of 84 months
29 in the State's prison and shall be fined not less than fifty thousand
30 dollars (\$50,000);
- 31 c. Is 10,000 or more dosage units, or equivalent quantity, such
32 person shall be punished as a Class D felon and shall be
33 sentenced to a minimum term of 175 months and a maximum
34 term of 219 months in the State's prison and shall be fined not
35 less than two hundred thousand dollars (\$200,000).
- 36 (3) Any person who sells, manufactures, delivers, transports, or possesses
37 28 grams or more of cocaine and any salt, isomer, salts of isomers,
38 compound, derivative, or preparation thereof, or any coca leaves and
39 any salt, isomer, salts of isomers, compound, derivative, or preparation
40 of coca leaves, and any salt, isomer, salts of isomers, compound,
41 derivative or preparation thereof which is chemically equivalent or
42 identical with any of these substances (except decocainized coca leaves
43 or any extraction of coca leaves which does not contain cocaine) or any

1 mixture containing such substances, shall be guilty of a felony, which
2 felony shall be known as 'trafficking in cocaine' and if the quantity of
3 such substance or mixture involved:

- 4 a. Is 28 grams or more, but less than 200 grams, such person shall
5 be punished as a Class G felon and shall be sentenced to a
6 minimum term of 35 months and a maximum term of 42 months
7 in the State's prison and shall be fined not less than fifty thousand
8 dollars (\$50,000);
- 9 b. Is 200 grams or more, but less than 400 grams, such person shall
10 be punished as a Class F felon and shall be sentenced to a
11 minimum term of 70 months and a maximum term of 84 months
12 in the State's prison and shall be fined not less than one hundred
13 thousand dollars (\$100,000);
- 14 c. Is 400 grams or more, such person shall be punished as a Class D
15 felon and shall be sentenced to a minimum term of 175 months
16 and a maximum term of 219 months in the State's prison and
17 shall be fined at least two hundred fifty thousand dollars
18 (\$250,000).

19 (3a) Any person who sells, manufactures, delivers, transports, or possesses
20 1,000 tablets, capsules or other dosage units, or the equivalent quantity,
21 or more of amphetamine, its salts, optical isomers, and salts of its
22 optical isomers or any mixture containing such substance, shall be
23 guilty of a felony which felony shall be known as 'trafficking in
24 amphetamine' and if the quantity of such substance or mixture involved:

- 25 a. Is 1,000 or more dosage units, or equivalent quantity, but less
26 than 5,000 dosage units, or equivalent quantity, such person shall
27 be punished as a Class G felon and shall be sentenced to a
28 minimum term of 35 months and a maximum term of 42 months
29 in the State's prison and shall be fined not less than twenty-five
30 thousand dollars (\$25,000);
- 31 b. Is 5,000 or more dosage units, or equivalent quantity, but less
32 than 10,000 dosage units, or equivalent quantity, such person
33 shall be punished as a Class F felon and shall be sentenced to a
34 minimum term of 70 months and a maximum term of 84 months
35 in the State's prison and shall be fined not less than fifty thousand
36 dollars (\$50,000);
- 37 c. Is 10,000 or more dosage units, or equivalent quantity, such
38 person shall be punished as a Class D felon and shall be
39 sentenced to a minimum term of 175 months and a maximum
40 term of 219 months in the State's prison and shall be fined not
41 less than two hundred thousand dollars (\$200,000).

42 (3b) Any person who sells, manufactures, delivers, transports, or possesses
43 28 grams or more of methamphetamine shall be guilty of a felony which

1 felony shall be known as 'trafficking in methamphetamine' and if the
2 quantity of such substance or mixture involved:

- 3 a. Is 28 grams or more, but less than 200 grams, such person shall
4 be punished as a Class G felon and shall be sentenced to a
5 minimum term of 35 months and a maximum term of 42 months
6 in the State's prison and shall be fined not less than fifty thousand
7 dollars (\$50,000);
8 b. Is 200 grams or more, but less than 400 grams, such person shall
9 be punished as a Class F felon and shall be sentenced to a
10 minimum term of 70 months and a maximum term of 84 months
11 in the State's prison and shall be fined not less than one hundred
12 thousand dollars (\$100,000);
13 c. Is 400 grams or more, such person shall be punished as a Class D
14 felon and shall be sentenced to a minimum term of 175 months
15 and a maximum term of 219 months in the State's prison and
16 shall be fined at least two hundred fifty thousand dollars
17 (\$250,000).

18 (4) Any person who sells, manufactures, delivers, transports, or possesses
19 four grams or more of opium or opiate, or any salt, compound,
20 derivative, or preparation of opium or opiate (except apomorphine,
21 nalbuphine, analoxone and naltrexone and their respective salts),
22 including heroin, or any mixture containing such substance, shall be
23 guilty of a felony which felony shall be known as 'trafficking in opium
24 or heroin' and if the quantity of such controlled substance or mixture
25 involved:

- 26 a. Is four grams or more, but less than 14 grams, such person shall
27 be punished as a Class F felon and shall be sentenced to a
28 minimum term of 70 months and a maximum term of 84 months
29 in the State's prison and shall be fined not less than fifty thousand
30 dollars (\$50,000);
31 b. Is 14 grams or more, but less than 28 grams, such person shall be
32 punished as a Class E felon and shall be sentenced to a minimum
33 term of 90 months and a maximum term of 117 months in the
34 State's prison and shall be fined not less than one hundred
35 thousand dollars (\$100,000);
36 c. Is 28 grams or more, such person shall be punished as a Class C
37 felon and shall be sentenced to a minimum term of 225 months
38 and a maximum term of 279 months in the State's prison and
39 shall be fined not less than five hundred thousand dollars
40 (\$500,000).

41 (4a) Any person who sells, manufactures, delivers, transports, or possesses
42 100 tablets, capsules, or other dosage units, or the equivalent quantity,
43 or more, of Lysergic Acid Diethylamide, or any mixture containing such

1 substance, shall be guilty of a felony, which felony shall be known as
2 'trafficking in Lysergic Acid Diethylamide'. If the quantity of such
3 substance or mixture involved:

- 4 a. Is 100 or more dosage units, or equivalent quantity, but less than
5 500 dosage units, or equivalent quantity, such person shall be
6 punished as a Class G felon and shall be sentenced to a minimum
7 term of 35 months and a maximum term of 42 months in the
8 State's prison and shall be fined not less than twenty-five
9 thousand dollars (\$25,000);
- 10 b. Is 500 or more dosage units, or equivalent quantity, but less than
11 1,000 dosage units, or equivalent quantity, such person shall be
12 punished as a Class F felon and shall be sentenced to a minimum
13 term of 70 months and a maximum term of 84 months in the
14 State's prison and shall be fined not less than fifty thousand
15 dollars (\$50,000);
- 16 c. Is 1,000 or more dosage units, or equivalent quantity, such
17 person shall be punished as a Class D felon and shall be
18 sentenced to a minimum term of 175 months and a maximum
19 term of 219 months in the State's prison and shall be fined not
20 less than two hundred thousand dollars (\$200,000).

21 (5) Except as provided in this subdivision, a person being sentenced under
22 this subsection may not receive a suspended sentence or be placed on
23 probation. The sentencing judge may reduce the fine, or impose a prison
24 term less than the applicable minimum prison term provided by this
25 subsection, or suspend the prison term imposed and place a person on
26 probation when such person has, to the best of his knowledge, provided
27 substantial assistance in the identification, arrest, or conviction of any
28 accomplices, accessories, co-conspirators, or principals if the sentencing
29 judge enters in the record a finding that the person to be sentenced has
30 rendered such substantial assistance.

31 (6) Sentences imposed pursuant to this subsection shall run consecutively
32 with and shall commence at the expiration of any sentence being served
33 by the person sentenced hereunder."

34 Section 2. This act becomes effective December 1, 1997, and applies to
35 offenses committed on or after that date.