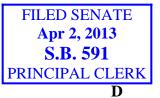
GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2013



SENATE DRS35272-RK-28 (03/27)

Short Title:	Amend Eligibility/Conditional Discharge.	(Public)
Sponsors:	Senator Allran (Primary Sponsor).	
Referred to:		

1	A BILL TO BE ENTITLED
2	AN ACT TO EXCLUDE A PERSON WHO HAS BEEN CONVICTED OF A CLASS A1
3	MISDEMEANOR FROM ELIGIBILITY FOR A CONDITIONAL DISCHARGE FROM
4	A GUILTY PLEA TO, OR A FINDING OF GUILT OF, A CONTROLLED SUBSTANCE
5	OFFENSE.
6	The General Assembly of North Carolina enacts:
7	SECTION 1. G.S. 90-96(a) reads as rewritten:
8	"(a) Whenever any person who has not previously been convicted of (i) any felony
9	offense under any state or federal-laws; laws, or a Class A1 misdemeanor under Chapter 14 of
10	the General Statutes or a substantially similar offense involving assaultive conduct under
11	federal law or other states' laws; (ii) any offense under this Article; or (iii) an offense under any
12	statute of the United States or any state relating to those substances included in Article 5 or 5A
13	of Chapter 90 or to that paraphernalia included in Article 5B of Chapter 90 of the General
14	Statutes-Statutes, pleads guilty to or is found guilty of (i) a misdemeanor under this Article by
15	possessing a controlled substance included within Schedules I through VI of this Article or by
16	possessing drug paraphernalia as prohibited by G.S. 90-113.22, or (ii) a felony under
17	G.S. 90-95(a)(3), the court shall, without entering a judgment of guilt and with the consent of
18	such person, defer further proceedings and place him on probation upon such reasonable terms
19	and conditions as it may require. Notwithstanding the provisions of G.S. 15A-1342(c) or any
20	other statute or law, probation may be imposed under this section for an offense under this
21	Article for which the prescribed punishment includes only a fine. To fulfill the terms and
22	conditions of probation the court may allow the defendant to participate in a drug education
23	program approved for this purpose by the Department of Health and Human Services or in the
24	Treatment for Effective Community Supervision Program under Article 6B of Chapter 143B of
25	the General Statutes. Upon violation of a term or condition, the court may enter an adjudication
26	of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the
27	court shall discharge such person and dismiss the proceedings against him. Discharge and
28	dismissal under this section shall be without court adjudication of guilt and shall not be deemed
29	a conviction for purposes of this section or for purposes of disqualifications or disabilities
30	imposed by law upon conviction of a crime including the additional penalties imposed for
31	second or subsequent convictions under this Article. Discharge and dismissal under this section
32	or G.S. 90-113.14 may occur only once with respect to any person. Disposition of a case to
33	determine discharge and dismissal under this section at the district court division of the General
34 25	Court of Justice shall be final for the purpose of appeal. Prior to taking any action to discharge
35 26	and dismiss under this section the court shall make a finding that the defendant has no record of
36	previous convictions as provided in this subsection."



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SECTION 2. This act becomes effective December 1, 2013, and applies to persons
pleading guilty to, or found guilty of, offenses committed on or after that date.