

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 655

Short Title: Drug Offense Penalties.

(Public)

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Sponsors: Senators Rand, Soles, Perdue, Davis, Little, Hoyle, Plyler, and Hobbs.

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Referred to: Judiciary II/Election Laws

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April 11, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A DEFENDANT WHO IS CONVICTED OF A DRUG  
2 TRAFFICKING CONSPIRACY IS NOT ELIGIBLE FOR INTERMEDIATE  
3 SANCTIONS UNDER THE STRUCTURED SENTENCING ACT AND TO  
4 PROVIDE THAT A PERSON WHO SELLS, MANUFACTURES, DELIVERS,  
5 TRANSPORTS, OR POSSESSES TEN POUNDS OR MORE OF MARIJUANA IS  
6 GUILTY OF TRAFFICKING IN MARIJUANA.  
7

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 15A-1340.13(h) reads as rewritten:

10 "(h) Exceptions When Extraordinary Mitigation Shall Not Be Used. – The court  
11 shall not impose an intermediate sanction pursuant to subsection (g) of this section if:

12 (1) The offense is a Class A or Class B1 felony;

13 (2) The offense is a drug trafficking offense under ~~G.S. 90-95(h)~~; G.S. 90-  
14 95(h) or a drug trafficking conspiracy offense under G.S. 90-95(i); or

15 (3) The defendant has five or more points as determined by G.S. 15A-  
16 1340.14."

17 Sec. 2. G.S. 90-95(h) reads as rewritten:

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

- 1           (1) Any person who sells, manufactures, delivers, transports, or possesses ~~in~~  
2 ~~excess of 50~~ 10 pounds (avoirdupois) or more of marijuana shall be  
3 guilty of a felony which felony shall be known as 'trafficking in  
4 marijuana' and if the quantity of such substance involved:
- 5           a. ~~Is in excess of 50 pounds,~~ 10 pounds or more, but less than 100  
6 pounds, such person shall be punished as a Class H felon and  
7 shall be sentenced to a minimum term of 25 months and a  
8 maximum term of 30 months in the State's prison and shall be  
9 fined not less than five thousand dollars (\$5,000);
- 10           b. Is 100 pounds or more, but less than 2,000 pounds, such person  
11 shall be punished as a Class G felon and shall be sentenced to a  
12 minimum term of 35 months and a maximum term of 42 months  
13 in the State's prison and shall be fined not less than twenty-five  
14 thousand dollars (\$25,000);
- 15           c. Is 2,000 pounds or more, but less than 10,000 pounds, such  
16 person shall be punished as a Class F felon and shall be  
17 sentenced to a minimum term of 70 months and a maximum term  
18 of 84 months in the State's prison and shall be fined not less than  
19 fifty thousand dollars (\$50,000);
- 20           d. Is 10,000 pounds or more, such person shall be punished as a  
21 Class D felon and shall be sentenced to a minimum term of 175  
22 months and a maximum term of 219 months in the State's prison  
23 and shall be fined not less than two hundred thousand dollars  
24 (\$200,000).
- 25           (2) Any person who sells, manufactures, delivers, transports, or possesses  
26 1,000 tablets, capsules or other dosage units, or the equivalent quantity,  
27 or more of methaqualone, or any mixture containing such substance,  
28 shall be guilty of a felony which felony shall be known as 'trafficking in  
29 methaqualone' and if the quantity of such substance or mixture  
30 involved:
- 31           a. Is 1,000 or more dosage units, or equivalent quantity, but less  
32 than 5,000 dosage units, or equivalent quantity, such person shall  
33 be punished as a Class G felon and shall be sentenced to a  
34 minimum term of 35 months and a maximum term of 42 months  
35 in the State's prison and shall be fined not less than twenty-five  
36 thousand dollars (\$25,000);
- 37           b. Is 5,000 or more dosage units, or equivalent quantity, but less  
38 than 10,000 dosage units, or equivalent quantity, such person  
39 shall be punished as a Class F felon and shall be sentenced to a  
40 minimum term of 70 months and a maximum term of 84 months  
41 in the State's prison and shall be fined not less than fifty thousand  
42 dollars (\$50,000);

- 1 c. Is 10,000 or more dosage units, or equivalent quantity, such  
2 person shall be punished as a Class D felon and shall be  
3 sentenced to a minimum term of 175 months and a maximum  
4 term of 219 months in the State's prison and shall be fined not  
5 less than two hundred thousand dollars (\$200,000).
- 6 (3) Any person who sells, manufactures, delivers, transports, or possesses  
7 28 grams or more of cocaine and any salt, isomer, salts of isomers,  
8 compound, derivative, or preparation thereof, or any coca leaves and  
9 any salt, isomer, salts of isomers, compound, derivative, or preparation  
10 of coca leaves, and any salt, isomer, salts of isomers, compound,  
11 derivative or preparation thereof which is chemically equivalent or  
12 identical with any of these substances (except decocainized coca leaves  
13 or any extraction of coca leaves which does not contain cocaine) or any  
14 mixture containing such substances, shall be guilty of a felony, which  
15 felony shall be known as 'trafficking in cocaine' and if the quantity of  
16 such substance or mixture involved:
- 17 a. Is 28 grams or more, but less than 200 grams, such person shall  
18 be punished as a Class G felon and shall be sentenced to a  
19 minimum term of 35 months and a maximum term of 42 months  
20 in the State's prison and shall be fined not less than fifty thousand  
21 dollars (\$50,000);
- 22 b. Is 200 grams or more, but less than 400 grams, such person shall  
23 be punished as a Class F felon and shall be sentenced to a  
24 minimum term of 70 months and a maximum term of 84 months  
25 in the State's prison and shall be fined not less than one hundred  
26 thousand dollars (\$100,000);
- 27 c. Is 400 grams or more, such person shall be punished as a Class D  
28 felon and shall be sentenced to a minimum term of 175 months  
29 and a maximum term of 219 months in the State's prison and  
30 shall be fined at least two hundred fifty thousand dollars  
31 (\$250,000).
- 32 (3a) Any person who sells, manufactures, delivers, transports, or possesses  
33 1,000 tablets, capsules or other dosage units, or the equivalent quantity,  
34 or more of amphetamine, its salts, optical isomers, and salts of its  
35 optical isomers or any mixture containing such substance, shall be  
36 guilty of a felony which felony shall be known as 'trafficking in  
37 amphetamine' and if the quantity of such substance or mixture involved:
- 38 a. Is 1,000 or more dosage units, or equivalent quantity, but less  
39 than 5,000 dosage units, or equivalent quantity, such person shall  
40 be punished as a Class G felon and shall be sentenced to a  
41 minimum term of 35 months and a maximum term of 42 months  
42 in the State's prison and shall be fined not less than twenty-five  
43 thousand dollars (\$25,000);

- 1           b.     Is 5,000 or more dosage units, or equivalent quantity, but less  
2           than 10,000 dosage units, or equivalent quantity, such person  
3           shall be punished as a Class F felon and shall be sentenced to a  
4           minimum term of 70 months and a maximum term of 84 months  
5           in the State's prison and shall be fined not less than fifty thousand  
6           dollars (\$50,000);
- 7           c.     Is 10,000 or more dosage units, or equivalent quantity, such  
8           person shall be punished as a Class D felon and shall be  
9           sentenced to a minimum term of 175 months and a maximum  
10          term of 219 months in the State's prison and shall be fined not  
11          less than two hundred thousand dollars (\$200,000).
- 12       (3b) Any person who sells, manufactures, delivers, transports, or possesses  
13       28 grams or more of methamphetamine shall be guilty of a felony which  
14       felony shall be known as 'trafficking in methamphetamine' and if the  
15       quantity of such substance or mixture involved:
- 16           a.     Is 28 grams or more, but less than 200 grams, such person shall  
17           be punished as a Class G felon and shall be sentenced to a  
18           minimum term of 35 months and a maximum term of 42 months  
19           in the State's prison and shall be fined not less than fifty thousand  
20           dollars (\$50,000);
- 21           b.     Is 200 grams or more, but less than 400 grams, such person shall  
22           be punished as a Class F felon and shall be sentenced to a  
23           minimum term of 70 months and a maximum term of 84 months  
24           in the State's prison and shall be fined not less than one hundred  
25           thousand dollars (\$100,000);
- 26           c.     Is 400 grams or more, such person shall be punished as a Class D  
27           felon and shall be sentenced to a minimum term of 175 months  
28           and a maximum term of 219 months in the State's prison and  
29           shall be fined at least two hundred fifty thousand dollars  
30           (\$250,000).
- 31       (4) Any person who sells, manufactures, delivers, transports, or possesses  
32       four grams or more of opium or opiate, or any salt, compound,  
33       derivative, or preparation of opium or opiate (except apomorphine,  
34       nalbuphine, analoxone and naltrexone and their respective salts),  
35       including heroin, or any mixture containing such substance, shall be  
36       guilty of a felony which felony shall be known as 'trafficking in opium  
37       or heroin' and if the quantity of such controlled substance or mixture  
38       involved:
- 39           a.     Is four grams or more, but less than 14 grams, such person shall  
40           be punished as a Class F felon and shall be sentenced to a  
41           minimum term of 70 months and a maximum term of 84 months  
42           in the State's prison and shall be fined not less than fifty thousand  
43           dollars (\$50,000);

- 1           b.     Is 14 grams or more, but less than 28 grams, such person shall be  
2           punished as a Class E felon and shall be sentenced to a minimum  
3           term of 90 months and a maximum term of 117 months in the  
4           State's prison and shall be fined not less than one hundred  
5           thousand dollars (\$100,000);  
6           c.     Is 28 grams or more, such person shall be punished as a Class C  
7           felon and shall be sentenced to a minimum term of 225 months  
8           and a maximum term of 279 months in the State's prison and  
9           shall be fined not less than five hundred thousand dollars  
10          (\$500,000).

11          (4a)    Any person who sells, manufactures, delivers, transports, or  
12          possesses 100 tablets, capsules, or other dosage units, or the  
13          equivalent quantity, or more, of Lysergic Acid Diethylamide, or any  
14          mixture containing such substance, shall be guilty of a felony, which  
15          felony shall be known as 'trafficking in Lysergic Acid Diethylamide'.  
16          If the quantity of such substance or mixture involved:

- 17          a.     Is 100 or more dosage units, or equivalent quantity, but less than  
18          500 dosage units, or equivalent quantity, such person shall be  
19          punished as a Class G felon and shall be sentenced to a minimum  
20          term of 35 months and a maximum term of 42 months in the  
21          State's prison and shall be fined not less than twenty-five  
22          thousand dollars (\$25,000);  
23          b.     Is 500 or more dosage units, or equivalent quantity, but less than  
24          1,000 dosage units, or equivalent quantity, such person shall be  
25          punished as a Class F felon and shall be sentenced to a minimum  
26          term of 70 months and a maximum term of 84 months in the  
27          State's prison and shall be fined not less than fifty thousand  
28          dollars (\$50,000);  
29          c.     Is 1,000 or more dosage units, or equivalent quantity, such  
30          person shall be punished as a Class D felon and shall be  
31          sentenced to a minimum term of 175 months and a maximum  
32          term of 219 months in the State's prison and shall be fined not  
33          less than two hundred thousand dollars (\$200,000).

34          (5)    Except as provided in this subdivision, a person being sentenced under  
35          this subsection may not receive a suspended sentence or be placed on  
36          probation. The sentencing judge may reduce the fine, or impose a  
37          prison term less than the applicable minimum prison term provided by  
38          this subsection, or suspend the prison term imposed and place a person  
39          on probation when such person has, to the best of his knowledge,  
40          provided substantial assistance in the identification, arrest, or conviction  
41          of any accomplices, accessories, co-conspirators, or principals if the  
42          sentencing judge enters in the record a finding that the person to be  
43          sentenced has rendered such substantial assistance.

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

4           Sec. 3. This act becomes effective December 1, 1995, and applies to offenses  
5 committed on or after that date.