

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE DRS55000-LH-46 (01/14)

Short Title: Amend Drug Trafficking Sentence.

(Public)

Sponsors: Senator Kinnaird.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAW REGARDING THE SENTENCE THAT MAY BE  
3 IMPOSED ON CERTAIN PERSONS CONVICTED OF A DRUG TRAFFICKING  
4 OFFENSE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 90-95(h)(5) reads as rewritten:

7 "(5) Except as provided in this subdivision, a person being sentenced under this  
8 subsection may not receive a suspended sentence or be placed on probation.  
9 The sentencing judge may reduce the fine, or impose a prison term less than  
10 the applicable minimum prison term provided by this subsection, or suspend  
11 the prison term imposed and place a person on probation ~~when such~~ when  
12 the sentencing judge finds that the person meets the criteria set out in either  
13 G.S. 90-95(h)(5)a. or G.S. 90-95(h)(5)b. and enters that finding in the  
14 record:

15 a. The person has, to the best of his or her knowledge, provided  
16 substantial assistance in the identification, arrest, or conviction of  
17 any accomplices, accessories, co-conspirators, or principals if the  
18 sentencing judge enters in the record a finding that the person to be  
19 sentenced has rendered such substantial assistance. ~~principals; or~~

20 b. The person has no prior convictions for crimes that produced or  
21 threatened serious bodily harm; has no prior felony convictions for  
22 the manufacture, sale, delivery, or possession of controlled  
23 substances as defined in this Article; and the sentencing judge finds  
24 by a preponderance of the evidence that the person: (i) did not  
25 possess a firearm during the commission of the offense; (ii) played a  
26 minimal role in the drug scheme that led to the offense; (iii) carried  
27 out the offense at the direction of another; and (iv) stood to receive  
28 substantially less pecuniary gain from the offense than the person  
29 who directed the commission of the offense."

30 **SECTION 2.** This act becomes effective December 1, 2011.



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