

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 350
Judiciary Committee Substitute Adopted 4/13/17

Short Title: Amend Drug Laws/Ellison v. Treadway.

(Public)

Sponsors:

Referred to:

March 23, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT POSSESSION OF CERTAIN PRESCRIPTION DRUGS IS
3 NOT PUNISHABLE AS TRAFFICKING IN OPIUM OR HEROIN AND TO SET OUT
4 THE CRIMINAL PENALTY FOR THAT OFFENSE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 90-95(h)(4) reads as rewritten:

7 "(4) ~~Any-Except as provided in subdivision (4c) of this subsection, any~~ person
8 who sells, manufactures, delivers, transports, or possesses four grams or
9 more of opium or opiate, or any salt, compound, derivative, or preparation of
10 opium or opiate (except apomorphine, nalbuphine, analoxone and naltrexone
11 and their respective salts), including heroin, or any mixture containing such
12 substance, shall be guilty of a felony which felony shall be known as
13 "trafficking in opium or heroin" and if the quantity of such controlled
14 substance or mixture involved:

- 15 a. Is four grams or more, but less than 14 grams, such person shall be
16 punished as a Class F felon and shall be sentenced to a minimum
17 term of 70 months and a maximum term of 93 months in the State's
18 prison and shall be fined not less than fifty thousand dollars
19 (\$50,000);
20 b. Is 14 grams or more, but less than 28 grams, such person shall be
21 punished as a Class E felon and shall be sentenced to a minimum
22 term of 90 months and a maximum term of 120 months in the State's
23 prison and shall be fined not less than one hundred thousand dollars
24 (\$100,000);
25 c. Is 28 grams or more, such person shall be punished as a Class C
26 felon and shall be sentenced to a minimum term of 225 months and a
27 maximum term of 282 months in the State's prison and shall be fined
28 not less than five hundred thousand dollars (\$500,000)."

29 **SECTION 2.** G.S. 90-95(h) is amended by adding a new subdivision to read:

30 "(4c) The illegal sale, delivery, transportation, or possession of pills, tablets, or
31 capsules of a controlled substance that contains an opiate, as defined in
32 G.S. 90-87(18), combined with a noncontrolled substance and that is a
33 commercial drug product with FDA approval manufactured and distributed
34 by a pharmaceutical company lawfully doing business in the United States
35 shall be governed by this section and by subsections (b) and (d) of this
36 section and shall not be governed by subdivision (4) of this subsection. Any



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1 person who sells, delivers, or possesses less than 100 pills, tablets, or
2 capsules of a controlled substance described in this subdivision shall not be
3 guilty of trafficking in pharmaceuticals but may be punished pursuant to the
4 provisions of subsections (b) and (d) of this section. Any person who sells,
5 delivers, transports, or possesses 100 or more pills, tablets, or capsules of a
6 controlled substance described in this subdivision shall be guilty of a felony
7 which shall be known as "trafficking in pharmaceuticals," and if the quantity
8 of such substance involved:

9 a. Is 100 or more pills, tablets, or capsules, but less than 400 pills,
10 tablets, or capsules, the person shall be punished as a Class G felon
11 and shall be sentenced to a minimum term of 35 months and a
12 maximum term of 51 months in the State's prison and shall be fined
13 not less than twenty-five thousand dollars (\$25,000);

14 b. Is 400 or more pills, tablets, or capsules, but less than 600 pills,
15 tablets, or capsules, the person shall be punished as a Class F felon
16 and shall be sentenced to a minimum term of 70 months and a
17 maximum term of 90 months in the State's prison and shall be fined
18 not less than fifty thousand dollars (\$50,000); or

19 c. Is 600 or more pills, tablets, or capsules, the person shall be punished
20 as a Class D felon and shall be sentenced to a minimum term of 175
21 months and a maximum term of 222 months in the State's prison and
22 shall be fined not less than two hundred thousand dollars
23 (\$200,000)."

24 **SECTION 3.** This act becomes effective December 1, 2017, and applies to
25 offenses committed on or after that date.