

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 709

Short Title: Drugs to Minors/Pregnant Women.

(Public)

Sponsors: Senators Winner, Daniel, Basnight, Rauch, Barker, Kaplan, Plyler, Conder, Soles, Goldston, Taft, Staton, Murphy, Marvin, Block, Guy, Harris, Speed, Royall, Sherron, Parnell, Ward, Martin of Guilford, Walker, Martin of Pitt; Ezzell, Hunt of Durham, Hunt of Moore, Johnson of Wake, Raynor, Richardson, and Sands.

Referred to: Judiciary I.

March 30, 1989

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE SENTENCE FOR THE ILLEGAL SALE OR DELIVERY OF DRUGS TO A MINOR OR A PREGNANT WOMAN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-95(e) reads as rewritten:

"(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

(1),(2) Repealed by Session Laws 1979, c. 760, s. 5.

(3) If any person commits an offense under this Article for which the prescribed punishment includes imprisonment for not more than two years, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be punished as a Class I felon;

(4) If any person commits an offense under this Article for which the prescribed punishment includes imprisonment for not more than six months, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a misdemeanor and shall

- 1 be sentenced to a term of imprisonment of not more than two years or
2 fined not more than two thousand dollars (\$2,000), or both in the
3 discretion of the court;
- 4 (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by
5 selling or delivering a controlled substance to a person under ~~16-18~~
6 years of age or a pregnant female shall be punished as a Class E ~~felon;~~
7 felon. It shall not be a defense that the defendant mistakenly believed
8 that the recipient of the controlled substance was 18 years of age or
9 older, even if the mistaken belief was reasonable. It shall not be a
10 defense that the defendant did not know that the recipient was
11 pregnant;
- 12 (6) For the purpose of increasing punishment, previous convictions for
13 offenses shall be counted by the number of separate trials at which
14 final convictions were obtained and not by the number of charges at a
15 single trial;
- 16 (7) If any person commits an offense under this Article for which the
17 prescribed punishment requires that any sentence of imprisonment be
18 suspended, and if he has previously been convicted for one or more
19 offenses under any law of North Carolina or any law of the United
20 States or any other state, which offenses are punishable under any
21 provision of this Article, he shall be guilty of a misdemeanor and shall
22 be sentenced to a term of imprisonment of not more than six months or
23 fined not more than five hundred dollars (\$500.00), or both in the
24 discretion of the court."

25 Sec. 2. This act shall become effective October 1, 1989, and shall apply to
26 offenses occurring on or after that date.