

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH80073-LH-74 (02/26)

Short Title: Amend Drug Trafficking Laws.-AB

(Public)

Sponsors: Representative Haire.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DRUG TRAFFICKING LAWS, AS RECOMMENDED
BY THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY
COMMISSION.

The General Assembly of North Carolina enacts:

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

"(h) Notwithstanding any other provision of law, the following provisions apply except as otherwise provided in this Article. Sentences imposed pursuant to this subsection may not be suspended and must include a minimum and maximum term of imprisonment that is consistent with the class of offense for which the sentence is being imposed and with the prior record level for the offender, as specified in G.S. 15A-1340.17.

(1) Any person who sells, manufactures, delivers, transports, or possesses in excess of ~~405~~ pounds (avoirdupois) of marijuana shall be guilty of a felony which felony shall be known as "trafficking in marijuana" and if the quantity of such substance involved:

- a. Is in excess of ~~405~~ pounds, but less than 50 pounds, such person shall be punished as a Class ~~H-F~~ felon ~~and shall be sentenced to a minimum term of 25 months and a maximum term of 30 months and, in addition to an active punishment in the State's prison and prison,~~ shall be fined not less than five thousand dollars (\$5,000);
- b. Is 50 pounds or more, but less than ~~2,000~~ 500 pounds, such person shall be punished as a Class ~~G-E~~ felon ~~and shall be sentenced to a minimum term of 35 months and a maximum term of 42 months and, in addition to an active punishment in~~

- 1 the State's ~~prison and prison~~, shall be fined not less than
2 twenty-five thousand dollars (\$25,000);
- 3 c. Is ~~2,000~~ 500 pounds or more, but less than ~~10,000~~ 5,000
4 pounds, such person shall be punished as a Class ~~F-D~~ felon ~~and~~
5 ~~shall be sentenced to a minimum term of 70 months and a~~
6 ~~maximum term of 84 months and, in addition to an active~~
7 ~~punishment in the State's prison and prison~~, shall be fined not
8 less than fifty thousand dollars (\$50,000);
- 9 d. Is ~~10,000~~ 5,000 pounds or more, such person shall be punished
10 as a Class ~~D-B2~~ felon ~~and shall be sentenced to a minimum~~
11 ~~term of 175 months and a maximum term of 219 months and, in~~
12 ~~addition to an active punishment in the State's prison and~~
13 ~~prison~~, shall be fined not less than two hundred thousand dollars
14 (\$200,000).
- 15 (2) Any person who sells, manufactures, delivers, transports, or possesses
16 1,000 tablets, capsules or other dosage units, or the equivalent
17 quantity, or more of methaqualone, or any mixture containing such
18 substance, shall be guilty of a felony which felony shall be known as
19 "trafficking in methaqualone" and if the quantity of such substance or
20 mixture involved:
- 21 a. Is 1,000 or more dosage units, or equivalent quantity, but less
22 than 5,000 dosage units, or equivalent quantity, such person
23 shall be punished as a Class ~~G-E~~ felon ~~and shall be sentenced to~~
24 ~~a minimum term of 35 months and a maximum term of 42~~
25 ~~months and, in addition to an active punishment in the State's~~
26 ~~prison and prison~~, shall be fined not less than twenty-five
27 thousand dollars (\$25,000);
- 28 b. Is 5,000 or more dosage units, or equivalent quantity, but less
29 than 10,000 dosage units, or equivalent quantity, such person
30 shall be punished as a Class ~~F-D~~ felon ~~and shall be sentenced to~~
31 ~~a minimum term of 70 months and a maximum term of 84~~
32 ~~months and, in addition to an active punishment in the State's~~
33 ~~prison and prison~~, shall be fined not less than fifty thousand
34 dollars (\$50,000);
- 35 c. Is 10,000 or more dosage units, or equivalent quantity, such
36 person shall be punished as a Class ~~D-B2~~ felon ~~and shall be~~
37 ~~sentenced to a minimum term of 175 months and a maximum~~
38 ~~term of 219 months and, in addition to an active punishment in~~
39 ~~the State's prison and prison~~, shall be fined not less than two
40 hundred thousand dollars (\$200,000).
- 41 (3) Any person who sells, manufactures, delivers, transports, or possesses
42 28 grams or more of cocaine and any salt, isomer, salts of isomers,
43 compound, derivative, or preparation thereof, or any coca leaves and
44 any salt, isomer, salts of isomers, compound, derivative, or preparation

1 of coca leaves, and any salt, isomer, salts of isomers, compound,
2 derivative or preparation thereof which is chemically equivalent or
3 identical with any of these substances (except decocainized coca
4 leaves or any extraction of coca leaves which does not contain
5 cocaine) or any mixture containing such substances, shall be guilty of
6 a felony, which felony shall be known as "trafficking in cocaine" and
7 if the quantity of such substance or mixture involved:

- 8 a. Is 28 grams or more, but less than 200 grams, such person shall
9 be punished as a Class ~~G-E~~ felon ~~and shall be sentenced to a~~
10 ~~minimum term of 35 months and a maximum term of 42~~
11 ~~months and, in addition to an active punishment in the State's~~
12 ~~prison and prison,~~ shall be fined not less than fifty thousand
13 dollars (\$50,000);
- 14 b. Is 200 grams or more, but less than 400 grams, such person
15 shall be punished as a Class ~~F-D~~ felon ~~and shall be sentenced to~~
16 ~~a minimum term of 70 months and a maximum term of 84~~
17 ~~months and, in addition to an active punishment in the State's~~
18 ~~prison and prison,~~ shall be fined not less than one hundred
19 thousand dollars (\$100,000);
- 20 c. Is 400 grams or more, such person shall be punished as a Class
21 ~~D-B2~~ felon ~~and shall be sentenced to a minimum term of 175~~
22 ~~months and a maximum term of 219 months and, in addition to~~
23 ~~an active punishment in the State's prison and prison,~~ shall be
24 fined at least two hundred fifty thousand dollars (\$250,000).

25 (3a) Repealed by Session Laws 1999-370, s. 1.

26 (3b) Any person who sells, manufactures, delivers, transports, or possesses
27 28 grams or more of methamphetamine or amphetamine shall be guilty
28 of a felony which felony shall be known as "trafficking in
29 methamphetamine or amphetamine" and if the quantity of such
30 substance or mixture involved:

- 31 a. Is 28 grams or more, but less than 200 grams, such person shall
32 be punished as a Class ~~F-D~~ felon ~~and shall be sentenced to a~~
33 ~~minimum term of 70 months and a maximum term of 84~~
34 ~~months and, in addition to an active punishment in the State's~~
35 ~~prison and prison,~~ shall be fined not less than fifty thousand
36 dollars (\$50,000);
- 37 b. Is 200 grams or more, but less than 400 grams, such person
38 shall be punished as a Class ~~E-C~~ felon ~~and shall be sentenced to~~
39 ~~a minimum term of 90 months and a maximum term of 117~~
40 ~~months and, in addition to an active punishment in the State's~~
41 ~~prison and prison,~~ shall be fined not less than one hundred
42 thousand dollars (\$100,000);
- 43 c. Is 400 grams or more, such person shall be punished as a Class
44 ~~C-B1~~ felon ~~and shall be sentenced to a minimum term of 225~~

1 ~~months and a maximum term of 279 months and~~, in addition to
2 ~~an active punishment in the State's prison and prison~~, shall be
3 fined at least two hundred fifty thousand dollars (\$250,000).

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

12 a. Is four grams or more, but less than 14 grams, such person shall
13 be punished as a Class ~~F-D~~ felon ~~and shall be sentenced to a~~
14 ~~minimum term of 70 months and a maximum term of 84~~
15 ~~months and~~, in addition to an active punishment in the State's
16 ~~prison and prison~~, shall be fined not less than fifty thousand
17 dollars (\$50,000);

18 b. Is 14 grams or more, but less than 28 grams, such person shall
19 be punished as a Class ~~E-C~~ felon ~~and shall be sentenced to a~~
20 ~~minimum term of 90 months and a maximum term of 117~~
21 ~~months and~~, in addition to an active punishment in the State's
22 ~~prison and prison~~, shall be fined not less than one hundred
23 thousand dollars (\$100,000);

24 c. Is 28 grams or more, such person shall be punished as a Class ~~E~~
25 ~~B1~~ felon ~~and shall be sentenced to a minimum term of 225~~
26 ~~months and a maximum term of 279 months and~~, in addition to
27 ~~an active punishment in the State's prison and prison~~, shall be
28 fined not less than five hundred thousand dollars (\$500,000).

- 29 (4a) Any person who sells, manufactures, delivers, transports, or possesses
30 100 tablets, capsules, or other dosage units, or the equivalent quantity,
31 or more, of Lysergic Acid Diethylamide, or any mixture containing
32 such substance, shall be guilty of a felony, which felony shall be
33 known as "trafficking in Lysergic Acid Diethylamide". If the quantity
34 of such substance or mixture involved:

35 a. Is 100 or more dosage units, or equivalent quantity, but less
36 than 500 dosage units, or equivalent quantity, such person shall
37 be punished as a Class ~~G-E~~ felon ~~and shall be sentenced to a~~
38 ~~minimum term of 35 months and a maximum term of 42~~
39 ~~months and~~, in addition to an active punishment in the State's
40 ~~prison and prison~~, shall be fined not less than twenty-five
41 thousand dollars (\$25,000);

42 b. Is 500 or more dosage units, or equivalent quantity, but less
43 than 1,000 dosage units, or equivalent quantity, such person
44 shall be punished as a Class ~~F-D~~ felon ~~and shall be sentenced to~~

- 1 ~~a minimum term of 70 months and a maximum term of 84~~
2 ~~months and, in addition to an active punishment in the State's~~
3 ~~prison and prison, shall be fined not less than fifty thousand~~
4 ~~dollars (\$50,000);~~
- 5 c. Is 1,000 or more dosage units, or equivalent quantity, such
6 person shall be punished as a Class ~~D-B2~~ felon ~~and shall be~~
7 ~~sentenced to a minimum term of 175 months and a maximum~~
8 ~~term of 219 months and, in addition to an active punishment in~~
9 the State's ~~prison and prison, shall be fined not less than two~~
10 ~~hundred thousand dollars (\$200,000).~~
- 11 (4b) Any person who sells, manufactures, delivers, transports, or possesses
12 100 or more tablets, capsules, or other dosage units, or 28 grams or
13 more of 3,4-methylenedioxyamphetamine (MDA), including its salts,
14 isomers, and salts of isomers, or 3,4-methylenedioxymethamphetamine
15 (MDMA), including its salts, isomers, and salts of isomers, or any
16 mixture containing such substances, shall be guilty of a felony, which
17 felony shall be known as "trafficking in MDA/MDMA." If the quantity
18 of the substance or mixture involved:
- 19 a. Is 100 or more tablets, capsules, or other dosage units, but less
20 than 500 tablets, capsules, or other dosage units, or 28 grams or
21 more, but less than 200 grams, the person shall be punished as a
22 Class ~~G-E~~ felon ~~and shall be sentenced to a minimum term of~~
23 ~~35 months and a maximum term of 42 months and, in addition~~
24 ~~to an active punishment in the State's prison and prison, shall be~~
25 ~~fined not less than twenty-five thousand dollars (\$25,000);~~
- 26 b. Is 500 or more tablets, capsules, or other dosage units, but less
27 than 1,000 tablets, capsules, or other dosage units, or 200 grams
28 or more, but less than 400 grams, the person shall be punished
29 as a Class ~~F-D~~ felon ~~and shall be sentenced to a minimum term~~
30 ~~of 70 months and a maximum term of 84 months and, in~~
31 ~~addition to an active punishment in the State's prison and~~
32 ~~prison, shall be fined not less than fifty thousand dollars~~
33 ~~(\$50,000);~~
- 34 c. Is 1,000 or more tablets, capsules, or other dosage units, or 400
35 grams or more, the person shall be punished as a Class ~~D-B2~~
36 ~~felon and shall be sentenced to a minimum term of 175 months~~
37 ~~and a maximum term of 219 months and, in addition to an~~
38 ~~active punishment in the State's prison and prison, shall be fined~~
39 ~~not less than two hundred fifty thousand dollars (\$250,000).~~
- 40 (5) Except as provided in this subdivision, a person being sentenced under
41 this subsection may not receive a suspended sentence or be placed on
42 probation. The sentencing judge may reduce the fine, or impose a
43 prison term less than the applicable minimum prison term provided by
44 this subsection, or suspend the prison term imposed and place a person

1 on probation when such person has, to the best of his knowledge,
2 provided substantial assistance in the identification, arrest, or
3 conviction of any accomplices, accessories, co-conspirators, or
4 principals if the sentencing judge enters in the record a finding that the
5 person to be sentenced has rendered such substantial assistance.

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

9 **SECTION 2.** G.S. 90-95(i) reads as rewritten:

10 (i) The penalties provided in subsection (h) of this section shall also apply to any
11 person who is convicted of conspiracy or attempt to commit any of the offenses
12 described in subsection (h) of this section.

13 **SECTION 3.** This act becomes effective December 1, 2003, and applies to
14 offenses committed on or after that date.