

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 241

Short Title: Amend Drug Trafficking Laws.-AB

(Public)

Sponsors: Representative Haire.

Referred to: Judiciary IV.

March 6, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE DRUG TRAFFICKING LAWS, AS RECOMMENDED
3 BY THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY
4 COMMISSION.

5 The General Assembly of North Carolina enacts:

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

7 "(h) Notwithstanding any other provision of law, the following provisions apply
8 except as otherwise provided in this Article. Sentences imposed pursuant to this
9 subsection may not be suspended and must include a minimum and maximum term of
10 imprisonment that is consistent with the class of offense for which the sentence is being
11 imposed and with the prior record level for the offender, as specified in G.S.
12 15A-1340.17.

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

17 a. Is in excess of ~~405~~ pounds, but less than 50 pounds, such person
18 shall be punished as a Class ~~H-F~~ felon ~~and shall be sentenced to~~
19 ~~a minimum term of 25 months and a maximum term of 30~~
20 ~~months and, in addition to an active punishment in the State's~~
21 ~~prison and prison,~~ shall be fined not less than five thousand
22 dollars (\$5,000);

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

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

1 identical with any of these substances (except decocainized coca
2 leaves or any extraction of coca leaves which does not contain
3 cocaine) or any mixture containing such substances, shall be guilty of
4 a felony, which felony shall be known as "trafficking in cocaine" and
5 if the quantity of such substance or mixture involved:

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

23 (3a) Repealed by Session Laws 1999-370, s. 1.

24 (3b) Any person who sells, manufactures, delivers, transports, or possesses
25 28 grams or more of methamphetamine or amphetamine shall be guilty of
26 a felony which felony shall be known as "trafficking in
27 methamphetamine or amphetamine" and if the quantity of such
28 substance or mixture involved:

- 29 a. Is 28 grams or more, but less than 200 grams, such person shall
30 be punished as a Class ~~F-D~~ felon ~~and shall be sentenced to a~~
31 ~~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 b. Is 200 grams or more, but less than 400 grams, such person
36 shall be punished as a Class ~~E-C~~ felon ~~and shall be sentenced to a~~
37 ~~minimum term of 90 months and a maximum term of 117~~
38 ~~months and, in addition to an active punishment in the State's~~
39 ~~prison and prison, shall be fined not less than one hundred~~
40 ~~thousand dollars (\$100,000);~~
41 c. Is 400 grams or more, such person shall be punished as a Class
42 ~~C-B1~~ felon ~~and shall be sentenced to a minimum term of 225~~
43 ~~months and a maximum term of 279 months and, in addition to~~

- 1 an active punishment in the State's prison and prison, shall be
2 fined at least two hundred fifty thousand dollars (\$250,000).
- 3 (4) Any person who sells, manufactures, delivers, transports, or possesses
4 four grams or more of opium or opiate, or any salt, compound,
5 derivative, or preparation of opium or opiate (except apomorphine,
6 nalbuphine, analoxone and naltrexone and their respective salts),
7 including heroin, or any mixture containing such substance, shall be
8 guilty of a felony which felony shall be known as "trafficking in opium
9 or heroin" and if the quantity of such controlled substance or mixture
10 involved:
11 a. Is four grams or more, but less than 14 grams, such person shall
12 be punished as a Class ~~F-D~~ felon ~~and shall be sentenced to a~~
13 ~~minimum term of 70 months and a maximum term of 84~~
14 ~~months and, in addition to an active punishment in the State's~~
15 ~~prison and prison, shall be fined not less than fifty thousand~~
16 ~~dollars (\$50,000);~~
17 b. Is 14 grams or more, but less than 28 grams, such person shall
18 be punished as a Class ~~E-C~~ felon ~~and shall be sentenced to a~~
19 ~~minimum term of 90 months and a maximum term of 117~~
20 ~~months and, in addition to an active punishment in the State's~~
21 ~~prison and prison, shall be fined not less than one hundred~~
22 ~~thousand dollars (\$100,000);~~
23 c. Is 28 grams or more, such person shall be punished as a Class ~~E~~
24 ~~B1~~ felon ~~and shall be sentenced to a minimum term of 225~~
25 ~~months and a maximum term of 279 months and, in addition to~~
26 ~~an active punishment in the State's prison and prison, shall be~~
27 ~~fined not less than five hundred thousand dollars (\$500,000).~~
- 28 (4a) Any person who sells, manufactures, delivers, transports, or possesses
29 100 tablets, capsules, or other dosage units, or the equivalent quantity,
30 or more, of Lysergic Acid Diethylamide, or any mixture containing
31 such substance, shall be guilty of a felony, which felony shall be
32 known as "trafficking in Lysergic Acid Diethylamide". If the quantity
33 of such substance or mixture involved:
34 a. Is 100 or more dosage units, or equivalent quantity, but less
35 than 500 dosage units, or equivalent quantity, such person shall
36 be punished as a Class ~~G-E~~ felon ~~and shall be sentenced to a~~
37 ~~minimum term of 35 months and a maximum term of 42~~
38 ~~months and, in addition to an active punishment in the State's~~
39 ~~prison and prison, shall be fined not less than twenty-five~~
40 ~~thousand dollars (\$25,000);~~
41 b. Is 500 or more dosage units, or equivalent quantity, but less
42 than 1,000 dosage units, or equivalent quantity, such person
43 shall be punished as a Class ~~F-D~~ felon ~~and shall be sentenced to~~
44 ~~a minimum term of 70 months and a maximum term of 84~~

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

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

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

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

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

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