

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

1

SENATE BILL 816

Short Title: Drug Trafficking/Increase Penalties. (Public)

Sponsors: Senators Brown; Allran, Apodaca, Berger of Rockingham, Boseman, Brock, Brunstetter, East, Forrester, Jenkins, Jones, Pittenger, Preston, and Tillman.

Referred to: Judiciary I (Civil).

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CRIMINAL PENALTY TO BE IMPOSED FOR
DRUG TRAFFICKING OFFENSES BY FIVE YEARS.

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.

(1) Any person who sells, manufactures, delivers, transports, or possesses in excess of 10 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 10 pounds, but less than 50 pounds, such person shall be punished as a Class H felon and shall be sentenced to a minimum term of ~~25 months and a maximum term of 30 months~~ 85 months and a maximum of 90 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);

b. Is 50 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of ~~35 months and a maximum term of 42 months~~ 95 months and a maximum of 102 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);

c. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of ~~70 months and a maximum term of 84 months~~ 130 months and a maximum of 144 months

- 1 in the State's prison and shall be fined not less than fifty
2 thousand dollars (\$50,000);
- 3 d. Is 10,000 pounds or more, such person shall be punished as a
4 Class D felon and shall be sentenced to a minimum term of ~~175~~
5 ~~months and a maximum term of 219 months~~ 235 months and a
6 maximum of 279 months in the State's prison and shall be fined
7 not less than two hundred thousand dollars (\$200,000).
- 8 (2) Any person who sells, manufactures, delivers, transports, or possesses
9 1,000 tablets, capsules or other dosage units, or the equivalent
10 quantity, or more of methaqualone, or any mixture containing such
11 substance, shall be guilty of a felony which felony shall be known as
12 "trafficking in methaqualone" and if the quantity of such substance or
13 mixture involved:
- 14 a. Is 1,000 or more dosage units, or equivalent quantity, but less
15 than 5,000 dosage units, or equivalent quantity, such person
16 shall be punished as a Class G felon and shall be sentenced to a
17 minimum term of ~~35 months and a maximum term of 42~~
18 ~~months~~ 95 months and a maximum of 102 months in the State's
19 prison and shall be fined not less than twenty-five thousand
20 dollars (\$25,000);
- 21 b. Is 5,000 or more dosage units, or equivalent quantity, but less
22 than 10,000 dosage units, or equivalent quantity, such person
23 shall be punished as a Class F felon and shall be sentenced to a
24 minimum term of ~~70 months and a maximum term of 84~~
25 ~~months~~ 130 months and a maximum of 144 months in the
26 State's prison and shall be fined not less than fifty thousand
27 dollars (\$50,000);
- 28 c. Is 10,000 or more dosage units, or equivalent quantity, such
29 person shall be punished as a Class D felon and shall be
30 sentenced to a minimum term of ~~175 months and a maximum~~
31 ~~term of 219 months~~ 235 months and a maximum of 279 months
32 in the State's prison and shall be fined not less than two hundred
33 thousand dollars (\$200,000).
- 34 (3) Any person who sells, manufactures, delivers, transports, or possesses
35 28 grams or more of cocaine and any salt, isomer, salts of isomers,
36 compound, derivative, or preparation thereof, or any coca leaves and
37 any salt, isomer, salts of isomers, compound, derivative, or preparation
38 of coca leaves, and any salt, isomer, salts of isomers, compound,
39 derivative or preparation thereof which is chemically equivalent or
40 identical with any of these substances (except decocainized coca
41 leaves or any extraction of coca leaves which does not contain
42 cocaine) or any mixture containing such substances, shall be guilty of
43 a felony, which felony shall be known as "trafficking in cocaine" and
44 if the quantity of such substance or mixture involved:

- 1 a. Is 28 grams or more, but less than 200 grams, such person shall
2 be punished as a Class G felon and shall be sentenced to a
3 minimum term of ~~35 months and a maximum term of 42~~
4 ~~months~~ 95 months and a maximum of 102 months in the State's
5 prison and shall be fined not less than fifty thousand dollars
6 (\$50,000);
- 7 b. Is 200 grams or more, but less than 400 grams, such person
8 shall be punished as a Class F felon and shall be sentenced to a
9 minimum term of ~~70 months and a maximum term of 84~~
10 ~~months~~ 130 months and a maximum of 144 months in the
11 State's prison and shall be fined not less than one hundred
12 thousand dollars (\$100,000);
- 13 c. Is 400 grams or more, such person shall be punished as a Class
14 D felon and shall be sentenced to a minimum term of ~~175~~
15 ~~months and a maximum term of 219 months~~ 235 months and a
16 maximum of 279 months in the State's prison and shall be fined
17 at least two hundred fifty thousand dollars (\$250,000).
- 18 (3a) Repealed by Session Laws 1999-370, s. 1, effective December 1, 1999.
- 19 (3b) Any person who sells, manufactures, delivers, transports, or possesses
20 28 grams or more of methamphetamine or amphetamine shall be guilty
21 of a felony which felony shall be known as "trafficking in
22 methamphetamine or amphetamine" and if the quantity of such
23 substance or mixture involved:
- 24 a. Is 28 grams or more, but less than 200 grams, such person shall
25 be punished as a Class F felon and shall be sentenced to a
26 minimum term of ~~70 months and a maximum term of 84~~
27 ~~months~~ 130 months and a maximum of 144 months in the
28 State's prison and shall be fined not less than fifty thousand
29 dollars (\$50,000);
- 30 b. Is 200 grams or more, but less than 400 grams, such person
31 shall be punished as a Class E felon and shall be sentenced to a
32 minimum term of ~~90 months and a maximum term of 117~~
33 ~~months~~ 150 months and a maximum of 177 months in the
34 State's prison and shall be fined not less than one hundred
35 thousand dollars (\$100,000);
- 36 c. Is 400 grams or more, such person shall be punished as a Class
37 C felon and shall be sentenced to a minimum term of ~~225~~
38 ~~months and a maximum term of 279 months~~ 285 months and a
39 maximum of 339 months in the State's prison and shall be fined
40 at least two hundred fifty thousand dollars (\$250,000).
- 41 (4) Any person who sells, manufactures, delivers, transports, or possesses
42 four grams or more of opium or opiate, or any salt, compound,
43 derivative, or preparation of opium or opiate (except apomorphine,
44 nalbuphine, analoxone and naltrexone and their respective salts),

1 including heroin, or any mixture containing such substance, shall be
2 guilty of a felony which felony shall be known as "trafficking in opium
3 or heroin" and if the quantity of such controlled substance or mixture
4 involved:

5 a. Is four grams or more, but less than 14 grams, such person shall
6 be punished as a Class F felon and shall be sentenced to a
7 minimum term of ~~70 months and a maximum term of 84~~
8 months-130 months and a maximum of 144 months in the
9 State's prison and shall be fined not less than fifty thousand
10 dollars (\$50,000);

11 b. Is 14 grams or more, but less than 28 grams, such person shall
12 be punished as a Class E felon and shall be sentenced to a
13 minimum term of ~~90 months and a maximum term of 117~~
14 months-150 months and a maximum of 177 months in the
15 State's prison and shall be fined not less than one hundred
16 thousand dollars (\$100,000);

17 c. Is 28 grams or more, such person shall be punished as a Class C
18 felon and shall be sentenced to a minimum term of ~~225 months~~
19 and a maximum term of 279 months-285 months and a
20 maximum of 339 months in the State's prison and shall be fined
21 not less than five hundred thousand dollars (\$500,000).

22 (4a) Any person who sells, manufactures, delivers, transports, or possesses
23 100 tablets, capsules, or other dosage units, or the equivalent quantity,
24 or more, of Lysergic Acid Diethylamide, or any mixture containing
25 such substance, shall be guilty of a felony, which felony shall be
26 known as "trafficking in Lysergic Acid Diethylamide". If the quantity
27 of such substance or mixture involved:

28 a. Is 100 or more dosage units, or equivalent quantity, but less
29 than 500 dosage units, or equivalent quantity, such person shall
30 be punished as a Class G felon and shall be sentenced to a
31 minimum term of ~~35 months and a maximum term of 42~~
32 months-95 months and a maximum of 102 months in the State's
33 prison and shall be fined not less than twenty-five thousand
34 dollars (\$25,000);

35 b. Is 500 or more dosage units, or equivalent quantity, but less
36 than 1,000 dosage units, or equivalent quantity, such person
37 shall be punished as a Class F felon and shall be sentenced to a
38 minimum term of ~~70 months and a maximum term of 84~~
39 months-130 months and a maximum of 144 months in the
40 State's prison and shall be fined not less than fifty thousand
41 dollars (\$50,000);

42 c. Is 1,000 or more dosage units, or equivalent quantity, such
43 person shall be punished as a Class D felon and shall be
44 sentenced to a minimum term of ~~175 months and a maximum~~

- 1 ~~term of 219 months~~ 235 months and a maximum of 279 months
2 in the State's prison and shall be fined not less than two hundred
3 thousand dollars (\$200,000).
- 4 (4b) Any person who sells, manufactures, delivers, transports, or possesses
5 100 or more tablets, capsules, or other dosage units, or 28 grams or
6 more of 3,4-methylenedioxyamphetamine (MDA), including its salts,
7 isomers, and salts of isomers, or 3,4-methylenedioxymethamphetamine
8 (MDMA), including its salts, isomers, and salts of isomers, or any
9 mixture containing such substances, shall be guilty of a felony, which
10 felony shall be known as "trafficking in MDA/MDMA." If the quantity
11 of the substance or mixture involved:
- 12 a. Is 100 or more tablets, capsules, or other dosage units, but less
13 than 500 tablets, capsules, or other dosage units, or 28 grams or
14 more, but less than 200 grams, the person shall be punished as a
15 Class G felon and shall be sentenced to a minimum term of ~~35~~
16 ~~months and a maximum term of 42 months~~ 95 months and a
17 maximum of 102 months in the State's prison and shall be fined
18 not less than twenty-five thousand dollars (\$25,000);
- 19 b. Is 500 or more tablets, capsules, or other dosage units, but less
20 than 1,000 tablets, capsules, or other dosage units, or 200 grams
21 or more, but less than 400 grams, the person shall be punished
22 as a Class F felon and shall be sentenced to a minimum term of
23 ~~70 months and a maximum term of 84 months~~ 130 months and
24 a maximum of 144 months in the State's prison and shall be
25 fined not less than fifty thousand dollars (\$50,000);
- 26 c. Is 1,000 or more tablets, capsules, or other dosage units, or 400
27 grams or more, the person shall be punished as a Class D felon
28 and shall be sentenced to a minimum term of ~~175 months and a~~
29 ~~maximum term of 219 months~~ 235 months and a maximum of
30 279 months in the State's prison and shall be fined not less than
31 two hundred fifty thousand dollars (\$250,000).
- 32 (5) Except as provided in this subdivision, a person being sentenced under
33 this subsection may not receive a suspended sentence or be placed on
34 probation. The sentencing judge may reduce the fine, or impose a
35 prison term less than the applicable minimum prison term provided by
36 this subsection, or suspend the prison term imposed and place a person
37 on probation when such person has, to the best of his knowledge,
38 provided substantial assistance in the identification, arrest, or
39 conviction of any accomplices, accessories, co-conspirators, or
40 principals if the sentencing judge enters in the record a finding that the
41 person to be sentenced has rendered such substantial assistance.
- 42 (6) Sentences imposed pursuant to this subsection shall run consecutively
43 with and shall commence at the expiration of any sentence being
44 served by the person sentenced hereunder.

1 (i) The penalties provided in subsection (h) of this section shall also apply to any
2 person who is convicted of conspiracy to commit any of the offenses described in
3 subsection (h) of this section."

4 **SECTION 2.** This act becomes effective December 1, 2007, and applies to
5 offenses committed on or after that date.