

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 474  
Committee Substitute Favorable 4/26/19

Short Title: Death by Distribution.

(Public)

Sponsors:

Referred to:

March 28, 2019

A BILL TO BE ENTITLED

AN ACT TO CREATE THE OFFENSES OF DEATH BY DISTRIBUTION OF CERTAIN CONTROLLED SUBSTANCES AND AGGRAVATED DEATH BY DISTRIBUTION OF CERTAIN CONTROLLED SUBSTANCES.

Whereas, the General Assembly finds that the number of deaths resulting from opioid-related overdoses has drastically increased over the past 20 years; and

Whereas, the General Assembly finds that the number of deaths resulting from opioid-related overdoses is unlikely to be reduced so long as the drug continues to be made available through illegal distribution by drug dealers; and

Whereas, the General Assembly finds that the legal distribution of opioids should only be through a prescription issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice; and

Whereas, it is the intent of the General Assembly to strengthen the laws to act as a greater deterrent to persons who want to illegally distribute opioids and further exacerbate the opioid epidemic; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 6 of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-18.4. Death by distribution of certain controlled substances; aggravated death by distribution of certain controlled substances; penalties.**

(a) Legislative Intent. – The General Assembly recognizes that deaths due to the opioid epidemic are devastating families and communities across North Carolina. The General Assembly finds that the opioid crisis is overwhelming medical providers engaged in the lawful distribution of controlled substances and is straining prevention and treatment efforts. Therefore, the General Assembly enacts this law to encourage effective intervention by the criminal justice system to hold illegal drug dealers accountable for criminal conduct that results in death.

(b) Death by Distribution of Certain Controlled Substances. – A person is guilty of death by distribution of certain controlled substances if all of the following requirements are met:

- (1) The person unlawfully sells or delivers at least one certain controlled substance to the victim.
- (2) The ingestion of the certain controlled substance or substances causes the death of the user.
- (3) The commission of the offense in subdivision (1) of this subsection was the proximate cause of the victim's death.
- (4) The person did not act with malice.



1       (c) Aggravated Death by Distribution of Certain Controlled Substances. – A person is  
2 guilty of aggravated death by distribution of certain controlled substances if all of the following  
3 requirements are met:

4           (1) The person unlawfully sells or delivers at least one certain controlled  
5 substance to the victim.

6           (2) The ingestion of the certain controlled substance or substances causes the  
7 death of the user.

8           (3) The commission of the offense in subdivision (1) of this subsection was the  
9 proximate cause of the victim's death.

10          (4) The person did not act with malice.

11          (5) The person has a previous conviction under this section, G.S. 90-95(a)(1),  
12 90-95.1, 90-95.4, 90-95.6, or trafficking in violation of G.S. 90-95(h), or a  
13 prior conviction in any federal or state court in the United States that is  
14 substantially similar to an offense listed, within seven years of the date of the  
15 offense. In calculating the seven-year period under this subdivision, any  
16 period of time during which the person was incarcerated in a local, state, or  
17 federal detention center, jail, or prison shall be excluded.

18       (d) Certain Controlled Substance. – For the purposes of this section, the term "certain  
19 controlled substance" includes any opium, opiate, or opioid; any synthetic or natural salt,  
20 compound, derivative, or preparation of opium, opiate, or opioid; cocaine or any other substance  
21 described in G.S. 90-90(1)(d); methamphetamine; a depressant described in G.S. 90-92(a)(1); or  
22 a mixture of one or more of these substances.

23       (e) Lesser Included Offense. – Death by distribution of certain controlled substances  
24 constitutes a lesser included offense of aggravated death by distribution of certain controlled  
25 substances in violation of this section and of murder in violation of G.S. 14-17(b)(2).

26       (f) Samaritan Protection. – Nothing in this section shall be construed to restrict or  
27 interfere with the rights and immunities provided under G.S. 90-96.2.

28       (g) Exception. – This section shall not apply to any of the following:

29           (1) A practitioner dispensing a valid prescription for a controlled substance for a  
30 legitimate medical purpose in the usual course of professional practice.

31           (2) A pharmacist dispensing and delivering a valid prescription for a controlled  
32 substance in the usual course of professional practice.

33       (h) Penalties. – Unless the conduct is covered under some other provision of law  
34 providing greater punishment, the following classifications apply to the offenses set forth in this  
35 section:

36           (1) Death by distribution of certain controlled substances is a Class C felony.

37           (2) Aggravated death by distribution of certain controlled substances is a Class  
38 B2 felony."

39       **SECTION 2.** This act becomes effective December 1, 2019, and applies to offenses  
40 committed on or after that date.