

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 707

Short Title: Drug Traffic/Can't Modify Sentence.

(Public)

Sponsors: Senators Daniel, Winner, 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 PROVIDE THAT A PERSON CONVICTED OF A DRUG TRAFFICKING VIOLATION IS NOT ELIGIBLE FOR EARLY RELEASE, EARLY PAROLE, GOOD TIME, OR GAIN TIME.

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 50 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 50 pounds, but less than 100 pounds, such person shall be punished as a Class H felon and shall be sentenced to a term of at least five years in the State's prison and shall be fined not less than five thousand dollars (\$5,000);

b. Is 100 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 term of at least seven years in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);

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

- 1                   b.     Is 200 grams or more, but less than 400 grams, such person  
2                   shall be punished as a Class F felon and shall be sentenced to a  
3                   term of at least 14 years in the State's prison and shall be fined  
4                   not less than one hundred thousand dollars (\$100,000);
- 5                   c.     Is 400 grams or more, such person shall be punished as a Class  
6                   D felon and shall be sentenced to a term of at least 35 years in  
7                   the State's prison and shall be fined at least two hundred fifty  
8                   thousand dollars (\$250,000).
- 9                   (4)    Any person who sells, manufactures, delivers, transports, or possesses  
10                  four grams or more of opium or opiate, or any salt, compound,  
11                  derivative, or preparation of opium or opiate (except apomorphine,  
12                  nalbuphine, analoxone and naltrexone and their respective salts),  
13                  including heroin, or any mixture containing such substance, shall be  
14                  guilty of a felony which felony shall be known as 'trafficking in opium  
15                  or heroin' and if the quantity of such controlled substance or mixture  
16                  involved:
- 17                 a.     Is four grams or more, but less than 14 grams, such person shall  
18                 be punished as a Class F felon and shall be sentenced to a term  
19                 of at least 14 years in the State's prison and shall be fined not  
20                 less than fifty thousand dollars (\$50,000);
- 21                 b.     Is 14 grams or more, but less than 28 grams, such person shall  
22                 be punished as a Class E felon and shall be sentenced to a term  
23                 of at least 18 years in the State's prison and shall be fined not  
24                 less than one hundred thousand dollars (\$100,000);
- 25                 c.     Is 28 grams or more, such person shall be punished as a Class C  
26                 felon and shall be sentenced to a term of at least 45 years in the  
27                 State's prison and shall be fined not less than five hundred  
28                 thousand dollars (\$500,000).
- 29                 (4a)    Any person who sells, manufactures, delivers, transports, or  
30                 possesses 100 tablets, capsules, or other dosage units, or the  
31                 equivalent quantity, or more, of Lysergic Acid Diethylamide, or any  
32                 mixture containing such substance, shall be guilty of a felony, which  
33                 felony shall be known as 'trafficking in Lysergic Acid  
34                 Diethylamide'. If the quantity of such substance or mixture  
35                 involved:
- 36                 a.     Is 100 or more dosage units, or equivalent quantity, but less  
37                 than 500 dosage units, or equivalent quantity, such person shall  
38                 be punished as a Class G felon and shall be sentenced to a term  
39                 of at least seven years in the State's prison and shall be fined not  
40                 less than twenty-five 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 felon and shall be sentenced to a

1 term of at least 14 years in the State's prison and shall be fined  
2 not less than fifty thousand dollars (\$50,000);

3 c. Is 1,000 or more dosage units, or equivalent quantity, such  
4 person shall be punished as a Class D felon and shall be  
5 sentenced to a term of at least 35 years in the State's prison and  
6 shall be fined not less than two hundred thousand dollars  
7 (\$200,000).

8 (5) Except as provided in this subdivision, a person being sentenced under  
9 this subsection is not eligible for early release, early parole, good time  
10 or gain time, and may not receive a suspended sentence or be placed  
11 on probation. A person sentenced under this subsection as a  
12 committed youthful offender shall be eligible for release or parole no  
13 earlier than that person would have been had he been sentenced under  
14 this subsection as a regular offender. The sentencing judge may  
15 reduce the fine, or impose a prison term less than the applicable  
16 minimum prison term provided by this subsection, or suspend the  
17 prison term imposed and place a person on probation when such  
18 person has, to the best of his knowledge, provided substantial  
19 assistance in the identification, arrest, or conviction of any  
20 accomplices, accessories, co-conspirators, or principals if the  
21 sentencing judge enters in the record a finding that the person to be  
22 sentenced has rendered such substantial assistance.

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

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