

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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1

HOUSE BILL 961

Short Title: Drug Offense Penalties.

(Public)

Sponsors: Representative Braswell.

Referred to: Judiciary II.

April 12, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A DEFENDANT WHO IS CONVICTED OF A DRUG
2 TRAFFICKING CONSPIRACY IS NOT ELIGIBLE FOR INTERMEDIATE
3 SANCTIONS UNDER THE STRUCTURED SENTENCING ACT AND TO
4 PROVIDE THAT A PERSON WHO SELLS, MANUFACTURES, DELIVERS,
5 TRANSPORTS, OR POSSESSES TEN POUNDS OR MORE OF MARIJUANA IS
6 GUILTY OF TRAFFICKING IN MARIJUANA.
7

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 15A-1340.13(h) reads as rewritten:

10 "(h) Exceptions When Extraordinary Mitigation Shall Not Be Used. – The court
11 shall not impose an intermediate sanction pursuant to subsection (g) of this section if:

12 (1) The offense is a Class A or Class B1 felony;

13 (2) The offense is a drug trafficking offense under ~~G.S. 90-95(h)~~; G.S. 90-
14 95(h) or a drug trafficking conspiracy offense under G.S. 90-95(i); or

15 (3) The defendant has five or more points as determined by G.S. 15A-
16 1340.14."

17 Sec. 2. G.S. 90-95(h) reads as rewritten:

18 "(h) Notwithstanding any other provision of law, the following provisions apply
19 except as otherwise provided in this Article.

- 1 (1) Any person who sells, manufactures, delivers, transports, or possesses ~~in~~
2 ~~excess of 50~~ 10 pounds (avoirdupois) or more of marijuana shall be
3 guilty of a felony which felony shall be known as 'trafficking in
4 marijuana' and if the quantity of such substance involved:
- 5 a. Is ~~in excess of 50 pounds,~~ 10 pounds or more, but less than 100
6 pounds, such person shall be punished as a Class H felon and
7 shall be sentenced to a minimum term of 25 months and a
8 maximum term of 30 months in the State's prison and shall be
9 fined not less than five thousand dollars (\$5,000);
- 10 b. Is 100 pounds or more, but less than 2,000 pounds, such person
11 shall be punished as a Class G felon and shall be sentenced to a
12 minimum term of 35 months and a maximum term of 42 months
13 in the State's prison and shall be fined not less than twenty-five
14 thousand dollars (\$25,000);
- 15 c. Is 2,000 pounds or more, but less than 10,000 pounds, such
16 person shall be punished as a Class F felon and shall be
17 sentenced to a minimum term of 70 months and a maximum term
18 of 84 months in the State's prison and shall be fined not less than
19 fifty thousand dollars (\$50,000);
- 20 d. Is 10,000 pounds or more, such person shall be punished as a
21 Class D felon and shall be sentenced to a minimum term of 175
22 months and a maximum term of 219 months in the State's prison
23 and shall be fined not less than two hundred thousand dollars
24 (\$200,000).
- 25 (2) Any person who sells, manufactures, delivers, transports, or possesses
26 1,000 tablets, capsules or other dosage units, or the equivalent quantity,
27 or more of methaqualone, or any mixture containing such substance,
28 shall be guilty of a felony which felony shall be known as 'trafficking in
29 methaqualone' and if the quantity of such substance or mixture
30 involved:
- 31 a. Is 1,000 or more dosage units, or equivalent quantity, but less
32 than 5,000 dosage units, or equivalent quantity, such person shall
33 be punished as a Class G felon and shall be sentenced to a
34 minimum term of 35 months and a maximum term of 42 months
35 in the State's prison and shall be fined not less than twenty-five
36 thousand dollars (\$25,000);
- 37 b. Is 5,000 or more dosage units, or equivalent quantity, but less
38 than 10,000 dosage units, or equivalent quantity, such person
39 shall be punished as a Class F felon and shall be sentenced to a
40 minimum term of 70 months and a maximum term of 84 months
41 in the State's prison and shall be fined not less than fifty thousand
42 dollars (\$50,000);

- 1 c. Is 10,000 or more dosage units, or equivalent quantity, such
2 person shall be punished as a Class D felon and shall be
3 sentenced to a minimum term of 175 months and a maximum
4 term of 219 months in the State's prison and shall be fined not
5 less than two hundred thousand dollars (\$200,000).
- 6 (3) Any person who sells, manufactures, delivers, transports, or possesses
7 28 grams or more of cocaine and any salt, isomer, salts of isomers,
8 compound, derivative, or preparation thereof, or any coca leaves and
9 any salt, isomer, salts of isomers, compound, derivative, or preparation
10 of coca leaves, and any salt, isomer, salts of isomers, compound,
11 derivative or preparation thereof which is chemically equivalent or
12 identical with any of these substances (except decocainized coca leaves
13 or any extraction of coca leaves which does not contain cocaine) or any
14 mixture containing such substances, shall be guilty of a felony, which
15 felony shall be known as 'trafficking in cocaine' and if the quantity of
16 such substance or mixture involved:
- 17 a. Is 28 grams or more, but less than 200 grams, such person shall
18 be punished as a Class G felon and shall be sentenced to a
19 minimum term of 35 months and a maximum term of 42 months
20 in the State's prison and shall be fined not less than fifty thousand
21 dollars (\$50,000);
- 22 b. Is 200 grams or more, but less than 400 grams, such person shall
23 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 months
25 in the State's prison and shall be fined not less than one hundred
26 thousand dollars (\$100,000);
- 27 c. Is 400 grams or more, such person shall be punished as a Class D
28 felon and shall be sentenced to a minimum term of 175 months
29 and a maximum term of 219 months in the State's prison and
30 shall be fined at least two hundred fifty thousand dollars
31 (\$250,000).
- 32 (3a) Any person who sells, manufactures, delivers, transports, or possesses
33 1,000 tablets, capsules or other dosage units, or the equivalent quantity,
34 or more of amphetamine, its salts, optical isomers, and salts of its
35 optical isomers or any mixture containing such substance, shall be
36 guilty of a felony which felony shall be known as 'trafficking in
37 amphetamine' and if the quantity of such substance or mixture involved:
- 38 a. Is 1,000 or more dosage units, or equivalent quantity, but less
39 than 5,000 dosage units, or equivalent quantity, such person shall
40 be punished as a Class G felon and shall be sentenced to a
41 minimum term of 35 months and a maximum term of 42 months
42 in the State's prison and shall be fined not less than twenty-five
43 thousand dollars (\$25,000);

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

- 1 b. Is 14 grams or more, but less than 28 grams, such person shall be
2 punished as a Class E felon and shall be sentenced to a minimum
3 term of 90 months and a maximum term of 117 months in the
4 State's prison and shall be fined not less than one hundred
5 thousand dollars (\$100,000);
6 c. Is 28 grams or more, such person shall be punished as a Class C
7 felon and shall be sentenced to a minimum term of 225 months
8 and a maximum term of 279 months in the State's prison and
9 shall be fined not less than five hundred thousand dollars
10 (\$500,000).

11 (4a) Any person who sells, manufactures, delivers, transports, or
12 possesses 100 tablets, capsules, or other dosage units, or the
13 equivalent quantity, or more, of Lysergic Acid Diethylamide, or any
14 mixture containing such substance, shall be guilty of a felony, which
15 felony shall be known as 'trafficking in Lysergic Acid Diethylamide'.
16 If the quantity of such substance or mixture involved:

- 17 a. Is 100 or more dosage units, or equivalent quantity, but less than
18 500 dosage units, or equivalent quantity, such person shall be
19 punished as a Class G felon and shall be sentenced to a minimum
20 term of 35 months and a maximum term of 42 months in the
21 State's prison and shall be fined not less than twenty-five
22 thousand dollars (\$25,000);
23 b. Is 500 or more dosage units, or equivalent quantity, but less than
24 1,000 dosage units, or equivalent quantity, such person shall be
25 punished as a Class F felon and shall be sentenced to a minimum
26 term of 70 months and a maximum term of 84 months in the
27 State's prison and shall be fined not less than fifty thousand
28 dollars (\$50,000);
29 c. Is 1,000 or more dosage units, or equivalent quantity, such
30 person shall be punished as a Class D felon and shall be
31 sentenced to a minimum term of 175 months and a maximum
32 term of 219 months in the State's prison and shall be fined not
33 less than two hundred thousand dollars (\$200,000).

34 (5) Except as provided in this subdivision, a person being sentenced under
35 this subsection may not receive a suspended sentence or be placed on
36 probation. The sentencing judge may reduce the fine, or impose a
37 prison term less than the applicable minimum prison term provided by
38 this subsection, or suspend the prison term imposed and place a person
39 on probation when such person has, to the best of his knowledge,
40 provided substantial assistance in the identification, arrest, or conviction
41 of any accomplices, accessories, co-conspirators, or principals if the
42 sentencing judge enters in the record a finding that the person to be
43 sentenced has rendered such substantial assistance.

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

4 Sec. 3. This act becomes effective December 1, 1995, and applies to offenses
5 committed on or after that date.