

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 962

Short Title: Drug Kingpin Act.

(Public)

Sponsors: Representatives Shaw; and H. Hunter.

Referred to: Judiciary II.

April 12, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR A SENTENCE OF LIFE IMPRISONMENT WITHOUT
2 PAROLE FOR PERSONS CONVICTED OF TRAFFICKING IN ILLEGAL
3 DRUGS, TO DECLARE THAT A HOUSE OR BUILDING IN A RESIDENTIAL
4 AREA THAT IS THE SCENE OF ILLEGAL DRUG-RELATED ACTIVITIES IS A
5 PUBLIC NUISANCE, TO PROVIDE THAT IT IS A CLASS 1 MISDEMEANOR
6 FOR A PERSON TO LOITER IN A PUBLIC AREA TO ENGAGE IN ILLEGAL
7 DRUG-RELATED ACTIVITIES, AND TO PROVIDE THAT A PERSON WHO
8 TESTIFIES AGAINST A DEFENDANT CHARGED WITH A DRUG
9 TRAFFICKING OFFENSE SHALL BE GRANTED IMMUNITY.
10

11 The General Assembly of North Carolina enacts:

12 Section 1. G.S. 90-95(h) is amended by adding a new subdivision to read:

13 "(4b) Any person who is convicted of a second or subsequent violation of this
14 subsection is guilty of a Class B1 felony and shall be sentenced to life in
15 prison without parole, notwithstanding G.S. 15A-1340.17."

16 Sec. 2. Article 35 of Chapter 14 of the General Statutes is amended by adding a
17 new section to read:

18 "§ 14-277.5. Residence or building that is scene of drug activities is a public
19 nuisance."

1 A residence or building is a public nuisance if it is located in a residential area, there
2 are frequent visitations at the house or building during irregular hours, the visitations are
3 the cause of large volumes of vehicular traffic around the house or building, and the
4 purpose of the visitations is for a violation of any provision of Article 5 of Chapter 90 of
5 the General Statutes."

6 Sec. 3. Article 52 of Chapter 14 of the General Statutes is amended by adding
7 a new section to read:

8 **"§ 14-401.15. Loitering for the purpose of engaging in unlawful drug-related**
9 **activities.**

10 (a) For purposes of this section, 'public place' means any street, sidewalk, bridge,
11 alley, alleyway, plaza, park, driveway, parking lot, transportation facility; or a doorway
12 or entrance way to any building which fronts on any of these places; or a motor vehicle in
13 or on any of these places; or any property owned by a local government unit.

14 (b) It is unlawful for a person to remain or wander about in a public place and to
15 do any of the following for the purpose of violating any provision of Article 5 of Chapter
16 90 of the General Statutes:

17 (1) Repeatedly beckon to, stop or attempt to stop passersby, or repeatedly
18 attempt to engage passersby in conversation;

19 (2) Repeatedly stop or attempt to stop motor vehicles;

20 (3) Repeatedly interfere with the free passage of other persons; or

21 (4) Repeatedly pass to or receive from passersby, whether on foot or in a
22 vehicle, money or objects.

23 (c) A violation of this section is a Class 1 misdemeanor."

24 Sec. 4. G.S. 90-95(h) reads as rewritten:

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

27 (1) Any person who sells, manufactures, delivers, transports, or possesses
28 in excess of 50 pounds (avoirdupois) of marijuana shall be guilty of a
29 felony which felony shall be known as 'trafficking in marijuana' and if
30 the quantity of such substance involved:

31 a. Is in excess of 50 pounds, but less than 100 pounds, such person
32 shall be punished as a Class H felon and shall be sentenced to a
33 minimum term of 25 months and a maximum term of 30 months
34 in the State's prison and shall be fined not less than five thousand
35 dollars (\$5,000);

36 b. Is 100 pounds or more, but less than 2,000 pounds, such person
37 shall be punished as a Class G felon and shall be sentenced to a
38 minimum term of 35 months and a maximum term of 42 months
39 in the State's prison and shall be fined not less than twenty-five
40 thousand dollars (\$25,000);

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

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

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

- 1 in the State's prison and shall be fined not less than fifty thousand
2 dollars (\$50,000);
- 3 b. Is 200 grams or more, but less than 400 grams, such person shall
4 be punished as a Class F felon and shall be sentenced to a
5 minimum term of 70 months and a maximum term of 84 months
6 in the State's prison and shall be fined not less than one hundred
7 thousand dollars (\$100,000);
- 8 c. Is 400 grams or more, such person shall be punished as a Class D
9 felon and shall be sentenced to a minimum term of 175 months
10 and a maximum term of 219 months in the State's prison and
11 shall be fined at least two hundred fifty thousand dollars
12 (\$250,000).
- 13 (4) Any person who sells, manufactures, delivers, transports, or possesses
14 four grams or more of opium or opiate, or any salt, compound,
15 derivative, or preparation of opium or opiate (except apomorphine,
16 nalbuphine, analoxone and naltrexone and their respective salts),
17 including heroin, or any mixture containing such substance, shall be
18 guilty of a felony which felony shall be known as 'trafficking in opium
19 or heroin' and if the quantity of such controlled substance or mixture
20 involved:
- 21 a. Is four grams or more, but less than 14 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 fifty thousand
25 dollars (\$50,000);
- 26 b. Is 14 grams or more, but less than 28 grams, such person shall be
27 punished as a Class E felon and shall be sentenced to a minimum
28 term of 90 months and a maximum term of 117 months in the
29 State's prison and shall be fined not less than one hundred
30 thousand dollars (\$100,000);
- 31 c. Is 28 grams or more, such person shall be punished as a Class C
32 felon and shall be sentenced to a minimum term of 225 months
33 and a maximum term of 279 months in the State's prison and
34 shall be fined not less than five hundred thousand dollars
35 (\$500,000).
- 36 (4a) Any person who sells, manufactures, delivers, transports, or
37 possesses 100 tablets, capsules, or other dosage units, or the
38 equivalent quantity, or more, of Lysergic Acid Diethylamide, or any
39 mixture containing such substance, shall be guilty of a felony, which
40 felony shall be known as 'trafficking in Lysergic Acid Diethylamide'.
41 If the quantity of such substance or mixture involved:
- 42 a. Is 100 or more dosage units, or equivalent quantity, but less than
43 500 dosage units, or equivalent quantity, such person shall be

1 punished as a Class G felon and shall be sentenced to a minimum
2 term of 35 months and a maximum term of 42 months in the
3 State's prison and shall be fined not less than twenty-five
4 thousand dollars (\$25,000);

5 b. Is 500 or more dosage units, or equivalent quantity, but less than
6 1,000 dosage units, or equivalent quantity, such person shall be
7 punished as a Class F felon and shall be sentenced to a minimum
8 term of 70 months and a maximum term of 84 months in the
9 State's prison and shall be fined not less than fifty thousand
10 dollars (\$50,000);

11 c. Is 1,000 or more dosage units, or equivalent quantity, such
12 person shall be punished as a Class D felon and shall be
13 sentenced to a minimum term of 175 months and a maximum
14 term of 219 months in the State's prison and shall be fined not
15 less than two hundred thousand dollars (\$200,000).

16 (5) Except as provided in this subdivision, a person being sentenced under
17 this subsection may not receive a suspended sentence or be placed on
18 probation. ~~The sentencing judge may reduce the fine, or impose a prison~~
19 ~~term less than the applicable minimum prison term provided by this~~
20 ~~subsection, or suspend the prison term imposed and place a person on~~
21 ~~probation when such person has, to the best of his knowledge, provided A~~
22 ~~person who provides substantial assistance in the identification, arrest,~~
23 ~~or conviction of any accomplices, accessories, co-conspirators, or~~
24 ~~principals if the sentencing judge enters in the record a finding that the~~
25 ~~person to be sentenced has rendered such substantial assistance. shall be~~
26 ~~granted immunity from prosecution under this subsection.~~

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

30 Sec. 5. The provisions of this act are severable. If any provision of this act is
31 held invalid by a court of competent jurisdiction, the invalidity does not affect other
32 provisions of the act that can be given effect without the invalid provision.

33 Sec. 6. This act becomes effective December 1, 1995, and applies to offenses
34 committed on and after that date.