

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1530

Short Title: Discretionary Sent.Drugs.

(Public)

Sponsors: Senators Ballantine; Allran, Blust, Carpenter, Cochrane, Forrester, Foxx, Garwood, Horton, Ledbetter, McDaniel, Rucho, and Shaw of Guilford.

Referred to: Judiciary.

June 1, 1998

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ACTIVE TIME MAY BE IMPOSED IN THE COURT'S DISCRETION FOR CERTAIN DRUG OFFENSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-95(d) reads as rewritten:

"(d) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(3) with respect to:

(1) A controlled substance classified in Schedule I shall be punished as a Class I felon;

(2) A controlled substance classified in Schedule II, III, or IV shall be guilty of a Class 1 misdemeanor. If the controlled substance exceeds four tablets, capsules, or other dosage units or equivalent quantity of hydromorphone or if the quantity of the controlled substance, or combination of the controlled substances, exceeds one hundred tablets, capsules or other dosage units, or equivalent quantity, the violation shall be punishable as a Class I felony. If the controlled substance is phencyclidine, or cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of

1 coca leaves, or any salt, isomer, salts of isomers, compound, derivative
2 or preparation thereof which is chemically equivalent or identical with
3 any of these substances (except decocanized coca leaves or any
4 extraction of coca leaves which does not contain cocaine or ecgonine),
5 the violation shall be punishable as a Class I felony.

6 (3) A controlled substance classified in Schedule V shall be guilty of a
7 Class 2 misdemeanor;

8 (4) A controlled substance classified in Schedule VI shall be guilty of a
9 Class 3 ~~misdemeanor, but any sentence of imprisonment imposed must~~
10 ~~be suspended and the judge may not require at the time of sentencing~~
11 ~~that the defendant serve a period of imprisonment as a special condition~~
12 ~~of probation.~~ ~~misdemeanor.~~ If the quantity of the controlled substance
13 exceeds one-half of an ounce (avoirdupois) of marijuana or one-
14 twentieth of an ounce (avoirdupois) of the extracted resin of marijuana,
15 commonly known as hashish, the violation shall be punishable as a
16 Class 1 misdemeanor. If the quantity of the controlled substance
17 exceeds one and one-half ounces (avoirdupois) of marijuana or three-
18 twentieths of an ounce (avoirdupois) of the extracted resin of marijuana,
19 commonly known as hashish, or if the controlled substance consists of
20 any quantity of synthetic tetrahydrocannabinols or
21 tetrahydrocannabinols isolated from the resin of marijuana, the violation
22 shall be punishable as a Class I felony."

23 Section 2. G.S. 15A-1340.20 is amended by adding a new subsection to read:

24 "(c2) Drug Offense Exception. – The court may impose an active punishment for a
25 second or subsequent misdemeanor violation of G.S. 90-95(d) although the class and
26 conviction level does not otherwise authorize the imposition of an active punishment."

27 Section 3. G.S. 15A-1340.13 is amended by adding a new subsection to read:

28 "(i) Drug Offense Exception. – The court may impose an active punishment for a
29 felony violation of G.S. 90-95(d) although the class and conviction level does not
30 otherwise authorize the imposition of an active punishment."

31 Section 4. This act becomes effective December 1, 1998, and applies to
32 offenses committed on or after that date.