

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-538
SENATE BILL 138

AN ACT TO CREATE THE OFFENSE OF UNLAWFUL MANUFACTURE, SALE, DELIVERY, OR POSSESSION OF SALVIA DIVINORUM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 52 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-401.23. Unlawful manufacture, sale, delivery, or possession of Salvia divinorum.

(a) It shall be unlawful for any person to knowingly or intentionally manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver Salvia divinorum or Salvinorin A.

(b) It shall be unlawful for any person to knowingly or intentionally possess Salvia divinorum or Salvinorin A.

(c) A violation of this section is punishable as follows:

(1) For a first or second offense under this section, the person is responsible for an infraction and shall be required to pay a fine of not less than twenty-five dollars (\$25.00).

(2) For a third or subsequent offense under this section, the person is guilty of a Class 3 misdemeanor.

(d) For purposes of this section:

(1) "Deliver" means the actual constructive or attempted transfer of Salvia divinorum or Salvinorin A from one person to another.

(2) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of Salvia divinorum or Salvinorin A by any means, whether directly or indirectly, artificially or naturally, or by extraction from substances of a natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacture includes any packaging or repackaging of the substance, or labeling or relabeling of its container, except that this term does not include the preparation or compounding of the substance by an individual for the individual's own use.

(3) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a plant.

(e) The provisions of this section shall not apply to:

(1) Employees or contractors of any accredited college or school of medicine or pharmacy at a public or private university in this State while performing medical or pharmacological research for such institution.

(2) The possession, planting, cultivation, growing, or harvesting of a plant strictly for aesthetic, landscaping, or decorative purposes."



SECTION 2. This act becomes effective December 1, 2009, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 6th day of August, 2009.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 10:11 a.m. this 28th day of August, 2009