

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

S

1

SENATE BILL 680

Short Title: Increase Penalties for Drug Trafficking. (Public)

Sponsors: Senators Brown; Berger of Rockingham, Brock, Brunstetter, East, Goss, Jacumin, Preston, Rucho, Swindell, and Tillman.

Referred to: Judiciary I.

March 19, 2009

A BILL TO BE ENTITLED
AN ACT TO INCREASE THE CRIMINAL PENALTY TO BE IMPOSED FOR DRUG
TRAFFICKING OFFENSES BY AN INCREASE OF ONE LEVEL OF FELONY.

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 10 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 10 pounds, but less than 50 pounds, such person shall be punished as a Class ~~H~~G felon and shall be sentenced to a minimum term of ~~25 months and a maximum term of 30 months~~35 months and a maximum of 42 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);

b. Is 50 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class ~~G~~F felon and shall be sentenced to a minimum term of ~~35 months and a maximum term of 42 months~~70 months and a maximum of 84 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);

c. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be punished as a Class ~~F~~E felon and shall be sentenced to a minimum term of ~~70 months and a maximum term of 84 months~~90 months and a maximum of 117 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);

d. Is 10,000 pounds or more, such person shall be punished as a Class ~~D~~C felon and shall be sentenced to a minimum term of ~~175 months and a maximum term of 219 months~~225 months and a maximum of 279 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).

(2) Any person who sells, manufactures, delivers, transports, or possesses 1,000 tablets, capsules or other dosage units, or the equivalent quantity, or more of methaqualone, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as "trafficking in methaqualone" and if the quantity of such substance or mixture involved:



- 1 a. Is 1,000 or more dosage units, or equivalent quantity, but less than
2 5,000 dosage units, or equivalent quantity, such person shall be
3 punished as a Class ~~G-F~~ felon and shall be sentenced to a minimum
4 term of ~~35 months and a maximum term of 42 months~~ 70 months and
5 a maximum of 84 months in the State's prison and shall be fined not
6 less than twenty-five thousand dollars (\$25,000);
- 7 b. Is 5,000 or more dosage units, or equivalent quantity, but less than
8 10,000 dosage units, or equivalent quantity, such person shall be
9 punished as a Class ~~FE~~ felon and shall be sentenced to a minimum
10 term of ~~70 months and a maximum term of 84 months~~ 90 months and
11 a maximum of 117 months in the State's prison and shall be fined not
12 less than fifty thousand dollars (\$50,000);
- 13 c. Is 10,000 or more dosage units, or equivalent quantity, such person
14 shall be punished as a Class ~~D-C~~ felon and shall be sentenced to a
15 minimum term of ~~175 months and a maximum term of 219 months~~
16 225 months and a maximum of 279 months in the State's prison and
17 shall be fined not less than two hundred thousand dollars (\$200,000).
- 18 (3) Any person who sells, manufactures, delivers, transports, or possesses 28
19 grams or more of cocaine and any salt, isomer, salts of isomers, compound,
20 derivative, or preparation thereof, or any coca leaves and any salt, isomer,
21 salts of isomers, compound, derivative, or preparation of coca leaves, and
22 any salt, isomer, salts of isomers, compound, derivative or preparation
23 thereof which is chemically equivalent or identical with any of these
24 substances (except decocainized coca leaves or any extraction of coca leaves
25 which does not contain cocaine) or any mixture containing such substances,
26 shall be guilty of a felony, which felony shall be known as "trafficking in
27 cocaine" and if the quantity of such substance or mixture involved:
- 28 a. Is 28 grams or more, but less than 200 grams, such person shall be
29 punished as a Class ~~G-F~~ felon and shall be sentenced to a minimum
30 term of ~~35 months and a maximum term of 42 months~~ 70 months and
31 a maximum of 84 months in the State's prison and shall be fined not
32 less than fifty thousand dollars (\$50,000);
- 33 b. Is 200 grams or more, but less than 400 grams, such person shall be
34 punished as a Class ~~F-E~~ felon and shall be sentenced to a minimum
35 term of ~~70 months and a maximum term of 84 months~~ 90 months and
36 a maximum of 117 months in the State's prison and shall be fined not
37 less than one hundred thousand dollars (\$100,000);
- 38 c. Is 400 grams or more, such person shall be punished as a Class ~~D-C~~
39 felon and shall be sentenced to a minimum term of ~~175 months and a~~
40 ~~maximum term of 219 months~~ 225 months and a maximum of 279
41 months in the State's prison and shall be fined at least two hundred
42 fifty thousand dollars (\$250,000).
- 43 (3a) Repealed by Session Laws 1999-370, s. 1, effective December 1, 1999.
- 44 (3b) Any person who sells, manufactures, delivers, transports, or possesses 28
45 grams or more of methamphetamine or amphetamine shall be guilty of a
46 felony which felony shall be known as "trafficking in methamphetamine or
47 amphetamine" and if the quantity of such substance or mixture involved:
- 48 a. Is 28 grams or more, but less than 200 grams, such person shall be
49 punished as a Class ~~F-E~~ felon and shall be sentenced to a minimum
50 term of ~~70 months and a maximum term of 84 months~~ 90 months and

- 1 a maximum of 117 months in the State's prison and shall be fined not
2 less than fifty thousand dollars (\$50,000);
- 3 b. Is 200 grams or more, but less than 400 grams, such person shall be
4 punished as a Class ~~E-D~~ felon and shall be sentenced to a minimum
5 term of ~~90 months and a maximum term of 117 months~~ 175 months
6 and a maximum of 219 months in the State's prison and shall be fined
7 not less than one hundred thousand dollars (\$100,000);
- 8 c. Is 400 grams or more, such person shall be punished as a Class ~~C-B~~
9 felon and shall be sentenced to a minimum term of ~~225 months and a~~
10 ~~maximum term of 279 months~~ 310 months and a maximum of 358
11 months in the State's prison and shall be fined at least two hundred
12 fifty thousand dollars (\$250,000).
- 13 (4) Any person who sells, manufactures, delivers, transports, or possesses four
14 grams or more of opium or opiate, or any salt, compound, derivative, or
15 preparation of opium or opiate (except apomorphine, nalbuphine, analoxone
16 and naltrexone and their respective salts), including heroin, or any mixture
17 containing such substance, shall be guilty of a felony which felony shall be
18 known as "trafficking in opium or heroin" and if the quantity of such
19 controlled substance or mixture involved:
- 20 a. Is four grams or more, but less than 14 grams, such person shall be
21 punished as a Class ~~F-E~~ felon and shall be sentenced to a minimum
22 term of ~~70 months and a maximum term of 84 months~~ 90 months and
23 a maximum of 117 months in the State's prison and shall be fined not
24 less than fifty thousand dollars (\$50,000);
- 25 b. Is 14 grams or more, but less than 28 grams, such person shall be
26 punished as a Class ~~E-D~~ felon and shall be sentenced to a minimum
27 term of ~~90 months and a maximum term of 117 months~~ 175 months
28 and a maximum of 219 months in the State's prison and shall be fined
29 not less than one hundred thousand dollars (\$100,000);
- 30 c. Is 28 grams or more, such person shall be punished as a Class ~~C-B~~
31 felon and shall be sentenced to a minimum term of ~~225 months and a~~
32 ~~maximum term of 279 months~~ 310 months and a maximum of 358
33 months in the State's prison and shall be fined not less than five
34 hundred thousand dollars (\$500,000).
- 35 (4a) Any person who sells, manufactures, delivers, transports, or possesses 100
36 tablets, capsules, or other dosage units, or the equivalent quantity, or more,
37 of Lysergic Acid Diethylamide, or any mixture containing such substance,
38 shall be guilty of a felony, which felony shall be known as "trafficking in
39 Lysergic Acid Diethylamide". If the quantity of such substance or mixture
40 involved:
- 41 a. Is 100 or more dosage units, or equivalent quantity, but less than 500
42 dosage units, or equivalent quantity, such person shall be punished as
43 a Class ~~G-F~~ felon and shall be sentenced to a minimum term of ~~35~~
44 ~~months and a maximum term of 42 months~~ 70 months and a
45 maximum of 84 months in the State's prison and shall be fined not
46 less than twenty-five thousand dollars (\$25,000);
- 47 b. Is 500 or more dosage units, or equivalent quantity, but less than
48 1,000 dosage units, or equivalent quantity, such person shall be
49 punished as a Class ~~F-E~~ felon and shall be sentenced to a minimum
50 term of ~~70 months and a maximum term of 84 months~~ 90 months and

- 1 a maximum of 117 months in the State's prison and shall be fined not
2 less than fifty thousand dollars (\$50,000);
- 3 c. Is 1,000 or more dosage units, or equivalent quantity, such person
4 shall be punished as a Class ~~D-C~~ felon and shall be sentenced to a
5 minimum term of ~~175 months~~ and ~~a maximum term of 219 months~~
6 225 months and a maximum of 279 months in the State's prison and
7 shall be fined not less than two hundred thousand dollars (\$200,000).
- 8 (4b) Any person who sells, manufactures, delivers, transports, or possesses 100 or
9 more tablets, capsules, or other dosage units, or 28 grams or more of
10 3,4-methylenedioxyamphetamine (MDA), including its salts, isomers, and
11 salts of isomers, or 3,4-methylenedioxymethamphetamine (MDMA),
12 including its salts, isomers, and salts of isomers, or any mixture containing
13 such substances, shall be guilty of a felony, which felony shall be known as
14 "trafficking in MDA/MDMA." If the quantity of the substance or mixture
15 involved:
- 16 a. Is 100 or more tablets, capsules, or other dosage units, but less than
17 500 tablets, capsules, or other dosage units, or 28 grams or more, but
18 less than 200 grams, the person shall be punished as a Class ~~G-F~~
19 felon and shall be sentenced to a minimum term of ~~35 months~~ and a
20 ~~maximum term of 42 months~~ 70 months and a maximum of 84
21 months in the State's prison and shall be fined not less than
22 twenty-five thousand dollars (\$25,000);
- 23 b. Is 500 or more tablets, capsules, or other dosage units, but less than
24 1,000 tablets, capsules, or other dosage units, or 200 grams or more,
25 but less than 400 grams, the person shall be punished as a Class ~~F-E~~
26 felon and shall be sentenced to a minimum term of ~~70 months~~ and a
27 ~~maximum term of 84 months~~ 90 months and a maximum of 117
28 months in the State's prison and shall be fined not less than fifty
29 thousand dollars (\$50,000);
- 30 c. Is 1,000 or more tablets, capsules, or other dosage units, or 400
31 grams or more, the person shall be punished as a Class ~~D-C~~ felon and
32 shall be sentenced to a minimum term of ~~175 months~~ and a
33 ~~maximum term of 219 months~~ 225 months and a maximum of 279
34 months in the State's prison and shall be fined not less than two
35 hundred fifty thousand dollars (\$250,000).
- 36 (5) Except as provided in this subdivision, a person being sentenced under this
37 subsection may not receive a suspended sentence or be placed on probation.
38 The sentencing judge may reduce the fine, or impose a prison term less than
39 the applicable minimum prison term provided by this subsection, or suspend
40 the prison term imposed and place a person on probation when such person
41 has, to the best of his knowledge, provided substantial assistance in the
42 identification, arrest, or conviction of any accomplices, accessories,
43 co-conspirators, or principals if the sentencing judge enters in the record a
44 finding that the person to be sentenced has rendered such substantial
45 assistance.
- 46 (6) Sentences imposed pursuant to this subsection shall run consecutively with
47 and shall commence at the expiration of any sentence being served by the
48 person sentenced hereunder.
- 49 (i) The penalties provided in subsection (h) of this section shall also apply to any
50 person who is convicted of conspiracy to commit any of the offenses described in subsection
51 (h) of this section."

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