

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 375*
Judiciary Committee Substitute Adopted 4/11/19
Third Edition Engrossed 5/2/19

Short Title: Death by Distribution.

(Public)

Sponsors:

Referred to:

March 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE OFFENSES OF DEATH BY DISTRIBUTION OF CERTAIN
3 CONTROLLED SUBSTANCES AND AGGRAVATED DEATH BY DISTRIBUTION OF
4 CERTAIN CONTROLLED SUBSTANCES.

5 Whereas, the General Assembly finds that the number of deaths resulting from
6 opioid-related overdoses has drastically increased over the past 20 years; and

7 Whereas, the General Assembly finds that the number of deaths resulting from
8 opioid-related overdoses is unlikely to be reduced so long as the drug continues to be made
9 available through illegal distribution by drug dealers; and

10 Whereas, the General Assembly finds that the legal distribution of opioids should
11 only be through a prescription issued for a legitimate medical purpose by an individual
12 practitioner acting in the usual course of his or her professional practice; and

13 Whereas, it is the intent of the General Assembly to strengthen the laws to act as a
14 greater deterrent to persons who want to illegally distribute opioids and further exacerbate the
15 opioid epidemic; Now, therefore,

16 The General Assembly of North Carolina enacts:

17 **SECTION 1.** Article 6 of Chapter 14 of the General Statutes is amended by adding
18 a new section to read:

19 **"§ 14-18.4. Death by distribution of certain controlled substances; aggravated death by**
20 **distribution of certain controlled substances; penalties.**

21 (a) Legislative Intent. – The General Assembly recognizes that deaths due to the opioid
22 epidemic are devastating families and communities across North Carolina. The General
23 Assembly finds that the opioid crisis is overwhelming medical providers engaged in the lawful
24 distribution of controlled substances and is straining prevention and treatment efforts. Therefore,
25 the General Assembly enacts this law to encourage effective intervention by the criminal justice
26 system to hold illegal drug dealers accountable for criminal conduct that results in death.

27 (b) Death by Distribution of Certain Controlled Substances. – A person is guilty of death
28 by distribution of certain controlled substances if all of the following requirements are met:

- 29 (1) The person unlawfully sells and delivers at least one certain controlled
30 substance to the victim.
31 (2) The ingestion of the certain controlled substance or substances causes the
32 death of the user.
33 (3) The person's unlawful sale and delivery of the certain controlled substance or
34 substances was the proximate cause of the victim's death.
35 (4) The person did not act with malice.



1 (c) Aggravated Death by Distribution of Certain Controlled Substances. – A person is
2 guilty of aggravated death by distribution of certain controlled substances if all of the following
3 requirements are met:

4 (1) The person unlawfully sells and delivers at least one certain controlled
5 substance to the victim.

6 (2) The ingestion of the certain controlled substance or substances causes the
7 death of the user.

8 (3) The person's unlawful sale and delivery of the certain controlled substance or
9 substances was the proximate cause of the victim's death.

10 (4) The person did not act with malice.

11 (5) The person has a previous conviction under this section, G.S. 90-95(a)(1),
12 90-95(e)(5), 90-95.1, 90-95.4, 90-95.6, or trafficking in violation of
13 G.S. 90-95, or a prior conviction in any federal or state court in the United
14 States that is substantially similar to an offense listed, within seven years of
15 the date of the offense. In calculating the seven-year period under this
16 subdivision, any period of time during which the person was incarcerated in a
17 local, state, or federal detention center, jail, or prison shall be excluded.

18 (d) Certain Controlled Substance. – For the purposes of this section, the term "certain
19 controlled substance" includes any opium, opiate, or opioid; any synthetic or natural salt,
20 compound, derivative, or preparation of opium, opiate, or opioid; cocaine or any other substance
21 described in G.S. 90-90(1)(d); methamphetamine; a depressant described in G.S. 90-92(a)(1); or
22 a mixture of one or more of these substances.

23 (e) Lesser Included Offense. – Death by distribution of certain controlled substances
24 constitutes a lesser included offense of aggravated death by distribution of certain controlled
25 substances in violation of this section and of murder in violation of G.S. 14-17(b)(2).

26 (f) Samaritan Protection. – If the person would qualify for limited immunity under
27 G.S. 90-96.2, the person may not be prosecuted under this section.

28 (g) Unlawful Distribution. – For purposes of this section, issuing a valid prescription for
29 a controlled substance for a legitimate medical purpose by an individual practitioner acting in the
30 usual course of professional practice is not unlawful distribution.

31 (h) Penalties. – Unless the conduct is covered under some other provision of law
32 providing greater punishment, the following classifications apply to the offenses set forth in this
33 section:

34 (1) Death by distribution of certain controlled substances is a Class C felony.

35 (2) Aggravated death by distribution of certain controlled substances is a Class
36 B2 felony."

37 **SECTION 2.** This act becomes effective December 1, 2019, and applies to offenses
38 committed on or after that date.