

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 770

Short Title: Amend Marijuana Trafficking Amts.

(Public)

Sponsors: Representatives Kiser; Aldridge, Allred, Baker, Barbee, Beall, Berry, Black, Bonner, Bowie, Brawley, Brown, Buchanan, Cansler, Capps, Carpenter, Clary, Cole, Crawford, Creech, Culpepper, Daughtry, Davis, Decker, Dedmon, Dickson, Eddins, Ellis, Esposito, Gamble, Gardner, Goodwin, Grady, Gray, Gulley, Hall, Hardy, Hensley, Hiatt, Hill, Holmes, Howard, R. Hunter, Hurley, Ives, Jarrell, Jeffus, Justus, Kinney, McComas, McCombs, McCrary, McMahan, Mercer, Miller, Miner, Mitchell, Moore, Morgan, Morris, Nye, Owens, Ramsey, Rayfield, Redwine, Reynolds, Rogers, Russell, Saunders, Sexton, Sherrill, Shubert, Smith, Starnes, Sutton, Tallent, Thompson, Tolson, Wainwright, Warwick, Watson, Weatherly, Wilkins, C. Wilson, G. Wilson, and Yongue.

Referred to: Judiciary II.

April 3, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE OFFENSE OF TRAFFICKING IN MARIJUANA BY
CHANGING THE AMOUNT OF MARIJUANA THAT WOULD BE
CONSIDERED TRAFFICKING.

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 ~~50~~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:

- 1 a. Is in excess of ~~50~~10 pounds, but less than 100 pounds, such
2 person shall be punished as a Class H felon and shall be
3 sentenced to a minimum term of 25 months and a maximum term
4 of 30 months in the State's prison and shall be fined not less than
5 five thousand dollars (\$5,000);
- 6 b. Is 100 pounds or more, but less than 2,000 pounds, such person
7 shall be punished as a Class G felon and shall be sentenced to a
8 minimum term of 35 months and a maximum term of 42 months
9 in the State's prison and shall be fined not less than twenty-five
10 thousand dollars (\$25,000);
- 11 c. Is 2,000 pounds or more, but less than 10,000 pounds, such
12 person shall be punished as a Class F felon and shall be
13 sentenced to a minimum term of 70 months and a maximum term
14 of 84 months in the State's prison and shall be fined not less than
15 fifty thousand dollars (\$50,000);
- 16 d. Is 10,000 pounds or more, such person shall be punished as a
17 Class D felon and shall be sentenced to a minimum term of 175
18 months and a maximum term of 219 months in the State's prison
19 and shall be fined not less than two hundred thousand dollars
20 (\$200,000).
- 21 (2) Any person who sells, manufactures, delivers, transports, or possesses
22 1,000 tablets, capsules or other dosage units, or the equivalent quantity,
23 or more of methaqualone, or any mixture containing such substance,
24 shall be guilty of a felony which felony shall be known as 'trafficking in
25 methaqualone' and if the quantity of such substance or mixture
26 involved:
- 27 a. Is 1,000 or more dosage units, or equivalent quantity, but less
28 than 5,000 dosage units, or equivalent quantity, such person shall
29 be punished as a Class G felon and shall be sentenced to a
30 minimum term of 35 months and a maximum term of 42 months
31 in the State's prison and shall be fined not less than twenty-five
32 thousand dollars (\$25,000);
- 33 b. Is 5,000 or more dosage units, or equivalent quantity, but less
34 than 10,000 dosage units, or equivalent quantity, such person
35 shall be punished as a Class F felon and shall be sentenced to a
36 minimum term of 70 months and a maximum term of 84 months
37 in the State's prison and shall be fined not less than fifty thousand
38 dollars (\$50,000);
- 39 c. Is 10,000 or more dosage units, or equivalent quantity, such
40 person shall be punished as a Class D felon and shall be
41 sentenced to a minimum term of 175 months and a maximum
42 term of 219 months in the State's prison and shall be fined not
43 less than two hundred thousand dollars (\$200,000).

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

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

- 1 State's prison and shall be fined not less than one hundred
2 thousand dollars (\$100,000);
- 3 c. Is 28 grams or more, such person shall be punished as a Class C
4 felon and shall be sentenced to a minimum term of 225 months
5 and a maximum term of 279 months in the State's prison and
6 shall be fined not less than five hundred thousand dollars
7 (\$500,000).
- 8 (4a) Any person who sells, manufactures, delivers, transports, or possesses
9 100 tablets, capsules, or other dosage units, or the equivalent quantity,
10 or more, of Lysergic Acid Diethylamide, or any mixture containing such
11 substance, shall be guilty of a felony, which felony shall be known as
12 'trafficking in Lysergic Acid Diethylamide'. If the quantity of such
13 substance or mixture involved:
- 14 a. Is 100 or more dosage units, or equivalent quantity, but less than
15 500 dosage units, or equivalent quantity, such person shall be
16 punished as a Class G felon and shall be sentenced to a minimum
17 term of 35 months and a maximum term of 42 months in the
18 State's prison and shall be fined not less than twenty-five
19 thousand dollars (\$25,000);
- 20 b. Is 500 or more dosage units, or equivalent quantity, but less than
21 1,000 dosage units, or equivalent quantity, such person shall be
22 punished as a Class F felon and shall be sentenced to a minimum
23 term of 70 months and a maximum term of 84 months in the
24 State's prison and shall be fined not less than fifty thousand
25 dollars (\$50,000);
- 26 c. Is 1,000 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 (5) Except as provided in this subdivision, a person being sentenced under
32 this subsection may not receive a suspended sentence or be placed on
33 probation. The sentencing judge may reduce the fine, or impose a prison
34 term less than the applicable minimum prison term provided by this
35 subsection, or suspend the prison term imposed and place a person on
36 probation when such person has, to the best of his knowledge, provided
37 substantial assistance in the identification, arrest, or conviction of any
38 accomplices, accessories, co-conspirators, or principals if the sentencing
39 judge enters in the record a finding that the person to be sentenced has
40 rendered such substantial assistance.
- 41 (6) Sentences imposed pursuant to this subsection shall run consecutively
42 with and shall commence at the expiration of any sentence being served
43 by the person sentenced hereunder."

1 Section 2. This act becomes effective December 1, 1997, and applies to
2 offenses committed on or after that date.