

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1054

Short Title: Increase Methamphetamine Penalties. (Public)

Sponsors: Senators Dalton, Nesbitt, Queen, Thomas; Apodaca, Brock, Carpenter, Foxx, and Tillman.

Referred to: Judiciary II.

May 12, 2004

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE THAT THE UNLAWFUL DISTRIBUTION OF
3 METHAMPHETAMINE THAT PROXIMATELY RESULTS IN THE DEATH OF
4 A PERSON IS SECOND DEGREE MURDER, TO MAKE IT AN
5 AGGRAVATING FACTOR TO MANUFACTURE METHAMPHETAMINE IN A
6 LOCATION THAT ENDANGERS A CHILD, TO INCREASE THE CRIMINAL
7 PENALTY FOR THE UNLAWFUL MANUFACTURE OF
8 METHAMPHETAMINE, AND TO INCREASE THE CRIMINAL PENALTY FOR
9 THE POSSESSION OF PRECURSOR SUBSTANCES FOR
10 METHAMPHETAMINE, AS RECOMMENDED BY THE JOINT LEGISLATIVE
11 CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT
12 COMMITTEE.

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** G.S. 14-17 reads as rewritten:

15 **"§ 14-17. Murder in the first and second degree defined; punishment.**

16 A murder which shall be perpetrated by means of a nuclear, biological, or chemical
17 weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait,
18 imprisonment, starving, torture, or by any other kind of willful, deliberate, and
19 premeditated killing, or which shall be committed in the perpetration or attempted
20 perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other
21 felony committed or attempted with the use of a deadly weapon shall be deemed to be
22 murder in the first degree, a Class A felony, and any person who commits such murder
23 shall be punished with death or imprisonment in the State's prison for life without parole
24 as the court shall determine pursuant to G.S. 15A-2000, except that any such person
25 who was under 17 years of age at the time of the murder shall be punished with
26 imprisonment in the State's prison for life without parole. Provided, however, any
27 person under the age of 17 who commits murder in the first degree while serving a
28 prison sentence imposed for a prior murder or while on escape from a prison sentence

1 imposed for a prior murder shall be punished with death or imprisonment in the State's
2 prison for life without parole as the court shall determine pursuant to G.S. 15A-2000.
3 All other kinds of murder, including that which shall be proximately caused by the
4 unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or
5 preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., or
6 methamphetamine, when the ingestion of such substance causes the death of the user,
7 shall be deemed murder in the second degree, and any person who commits such
8 murder shall be punished as a Class B2 felon."

9 **SECTION 2.** G.S. 15A-1340.16(d) is amended by adding a new subdivision
10 to read:

11 "(16a) The offense is the manufacture of methamphetamine and was
12 committed where a person under the age of 18 lives, was present, or
13 was otherwise endangered by exposure to the drug, its ingredients, its
14 by-products, or its waste."

15 **SECTION 3.** G.S. 90-95(b) reads as rewritten:

16 "(b) Except as provided in subsections (h) and (i) of this section, any person who
17 violates G.S. 90-95(a)(1) with respect to:

18 (1) A controlled substance classified in Schedule I or II shall be punished
19 as a Class H felon, except ~~that~~ as follows: (i) the sale of a controlled
20 substance classified in Schedule I or II shall be punished as a Class G
21 felon; felony, and (ii) the manufacture of methamphetamine shall be
22 punished as provided by subdivision (1a) of this subsection.

23 (1a) The manufacture of methamphetamine shall be punished as a Class C
24 felony unless the offense was one of the following: packaging or
25 repackaging methamphetamine, or labeling or relabeling the
26 methamphetamine container. The offense of packaging or repackaging
27 methamphetamine, or labeling or relabeling the methamphetamine
28 container shall be punished as a Class H felony.

29 (2) A controlled substance classified in Schedule III, IV, V, or VI shall be
30 punished as a Class I felon, except that the sale of a controlled
31 substance classified in Schedule III, IV, V, or VI shall be punished as a
32 Class H felon. The transfer of less than 5 grams of marijuana for no
33 remuneration shall not constitute a delivery in violation of
34 G.S. 90-95(a)(1)."

35 **SECTION 4.** G.S. 90-95(d1) reads as rewritten:

36 "(d1) Except as authorized by this Article, it is unlawful for any person to:

37 (1) Possess an immediate precursor chemical with intent to manufacture a
38 controlled substance; or

39 (2) Possess or distribute an immediate precursor chemical knowing, or
40 having reasonable cause to believe, that the immediate precursor
41 chemical will be used to manufacture a controlled substance.

42 Any person who violates this subsection shall be punished as a Class ~~H~~F felon."

43 **SECTION 5.** G.S. 90-95(d2) reads as rewritten:

1 "(d2) The immediate precursor chemicals to which subsection (d1) of this section
2 applies are those immediate precursor chemicals designated by the Commission
3 pursuant to its authority under G.S. 90-88, and the following (until otherwise specified
4 by the Commission):

- 5 (1) Acetic anhydride.
- 6 (2) Acetone.
- 7 ~~(1)~~(3) Anhydrous ammonia.
- 8 ~~(1a)~~(4) Anthranilic acid.
- 9 (5) Benzyl chloride.
- 10 ~~(2)~~(6) Benzyl cyanide.
- 11 (7) 2-Butanone (Methyl Ethyl Ketone).
- 12 ~~(3)~~(8) Chloroephedrine.
- 13 ~~(4)~~(9) Chloropseudoephedrine.
- 14 ~~(5)~~(10) D-lysergic acid.
- 15 ~~(6)~~(11) Ephedrine.
- 16 ~~(7)~~(12) Ergonovine maleate.
- 17 ~~(8)~~(13) Ergotamine tartrate.
- 18 (14) Ethyl ether.
- 19 ~~(9)~~(15) Ethyl Malonate.
- 20 ~~(10)~~(16) Ethylamine.
- 21 (17) Gamma-butyrolactone.
- 22 (18) Hydrochloric Acid.
- 23 ~~(10a)~~(19) Iodine.
- 24 ~~(11)~~(20) Isosafrole.
- 25 ~~(11a)~~(21) Lithium.
- 26 ~~(12)~~(22) Malonic acid.
- 27 ~~(13)~~(23) Methylamine.
- 28 (24) Methyl Isobutyl Ketone.
- 29 ~~(14)~~(25) N-acetylanthranilic acid.
- 30 ~~(15)~~(26) N-ethylephedrine.
- 31 ~~(16)~~(27) N-ethylepseudoephedrine.
- 32 ~~(17)~~(28) N-methylephedrine.
- 33 ~~(18)~~(29) N-methylpseudoephedrine.
- 34 ~~(19)~~(30) Norpseudoephedrine.
- 35 ~~(20)~~(31) Phenyl-2-propane.
- 36 ~~(21)~~(32) Phenylacetic acid.
- 37 ~~(22)~~(33) Phenylpropanolamine.
- 38 ~~(23)~~(34) Piperidine.
- 39 ~~(24)~~(35) Piperonal.
- 40 ~~(25)~~(36) Propionic anhydride.
- 41 ~~(26)~~(37) Pseudoephedrine.
- 42 ~~(27)~~(38) Pyrrolidine.
- 43 ~~(27a)~~(39) Red phosphorous.
- 44 ~~(28)~~(40) Safrole.

- 1 ~~(28a)~~(41) Sodium.
2 (42) Sulfuric Acid.
3 (43) Tetrachloroethylene.
4 ~~(29)~~(44) Thionylchloride.
5 (45) Toluene.
6 (30) Gamma-butyrolactone."

7 **SECTION 6.** This act becomes effective December 1, 2004, and applies to
8 offenses committed on or after that date.