

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

HOUSE BILL 29  
RATIFIED BILL

AN ACT TO CREATE THE OFFENSE OF POSSESSION OF PSEUDOEPHEDRINE IF THE DEFENDANT HAS A PRIOR CONVICTION FOR THE POSSESSION OR MANUFACTURE OF METHAMPHETAMINE, AND TO AGGRAVATE THE PENALTY FOR MANUFACTURING METHAMPHETAMINE WHEN CHILDREN, DISABLED, OR ELDERLY ARE PRESENT, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON METHAMPHETAMINE ABUSE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 90-95(d1)(1) reads as rewritten:

- "(d1) (1) Except as authorized by this Article, it is unlawful for any person to:
- a. Possess an immediate precursor chemical with intent to manufacture a controlled substance; or
  - b. Possess or distribute an immediate precursor chemical knowing, or having reasonable cause to believe, that the immediate precursor chemical will be used to manufacture a controlled substance.
  - c. Possess a pseudoephedrine product if the person has a prior conviction for the possession or manufacture of methamphetamine.

Any person who violates this subsection shall be punished as a Class H felon, unless the immediate precursor is one that can be used to manufacture methamphetamine."

**SECTION 2.** G.S. 15A-1340.16D reads as rewritten:

"§ 15A-1340.16D. Manufacturing methamphetamine; enhanced sentence.~~Enhanced sentence if defendant is convicted of manufacture of methamphetamine and the offense resulted in serious injury to a law enforcement officer, probation officer, parole officer, emergency medical services employee, or a firefighter.~~

(a) If a person is convicted of the offense of manufacture of methamphetamine under G.S. 90-95(b)(1a) and it is found as provided in this section that a law enforcement officer, probation officer, parole officer, emergency medical services employee, or a firefighter suffered serious injury while discharging or attempting to discharge his or her official duties and that the injury was directly caused by one of the hazards associated with the manufacture of methamphetamine, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 24 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 24 months, as specified in G.S. 15A-1340.17(e) and (e1).

(a1) If a person is convicted of the offense of manufacture of methamphetamine under G.S. 90-95(b)(1a) and it is found as provided in this section that:

- (1) A minor under 18 years of age resided on the property used for the manufacture of methamphetamine, or was present at a location where methamphetamine was being manufactured, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 24 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 24 months, as specified in G.S. 15A-1340.17(e) and (e1).
- (2) A disabled or elder adult resided on the property used for the manufacture of methamphetamine, or was present at a location where methamphetamine was being manufactured, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 24 months. The maximum term of imprisonment shall be the maximum term



that corresponds to the minimum term after it is increased by 24 months, as specified in G.S. 15A-1340.17(e) and (e1).

- (3) A minor and a disabled or elder adult resided on the property, or were present at a location where methamphetamine was being manufactured, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 48 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 48 months, as specified in G.S. 15A-1340.17(e) and (e1).

(a2) For the purposes of this section, the terms "disabled adult" and "elder adult" shall be defined as set forth in G.S. 14-32.3(d).

(a3) The penalties set forth in this section are cumulative. The minimum sentence shall be increased by the sum of the number of months for convictions under subsections (a) and (a1) of this section, and the maximum term of imprisonment shall be the maximum term that corresponds to the total number of months, as specified in G.S. 15A-1340.17(e) and (e1).

(b) An indictment or information for the offense of manufacture of methamphetamine under G.S. 90-95(b)(1a) shall allege in that indictment or information the facts set out in subsection (a) or (a1) of this section. The pleading is sufficient if it alleges any or all of the following:

- (1) ~~that the~~ The defendant committed the offense of manufacture of methamphetamine and that as a result of the offense a law enforcement officer, probation officer, parole officer, emergency medical services employee, or firefighter suffered serious injury while discharging or attempting to discharge his or her official duties. ~~One pleading is sufficient for all felonies that are tried at a single trial.~~
- (2) The defendant committed the offense of manufacture of methamphetamine and that a minor resided on the property used for manufacturing the methamphetamine, or was present at a location where methamphetamine was being manufactured.
- (3) The defendant committed the offense of manufacture of methamphetamine and that a disabled or elder adult resided on the property used for manufacturing the methamphetamine, or was present at a location where methamphetamine was being manufactured.
- (4) The defendant committed the offense of manufacture of methamphetamine and that a minor and a disabled or elder adult resided on the property used for manufacturing the methamphetamine, or were present at a location where methamphetamine was being manufactured.

One pleading is sufficient for all felonies that are tried at a single trial.

(c) The State shall prove the issue or issues set out in subsection (b) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the offense of manufacture of methamphetamine unless the defendant pleads guilty or no contest to the issue. If the defendant pleads guilty or no contest to the offense of manufacture of methamphetamine but pleads not guilty to the issue or issues set out in subsection (b) of this section, then a jury shall be impaneled to determine the issue.

(d) This section does not apply if the offense is packaging or repackaging methamphetamine, or labeling or relabeling the methamphetamine container."

**SECTION 3.** This act becomes effective December 1, 2013, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 12<sup>th</sup> day of June, 2013.

s/ Daniel J. Forest  
President of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

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Pat McCrory  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2013