

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1054
Judiciary II Committee Substitute Adopted 5/27/04

Short Title: Increase Methamphetamine Penalties.

(Public)

Sponsors:

Referred to:

May 12, 2004

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT THE UNLAWFUL DISTRIBUTION OF
2 METHAMPHETAMINE THAT PROXIMATELY RESULTS IN THE DEATH OF
3 A PERSON IS SECOND DEGREE MURDER, TO MAKE IT AN
4 AGGRAVATING FACTOR TO MANUFACTURE METHAMPHETAMINE IN A
5 LOCATION THAT ENDANGERS A CHILD, TO INCREASE THE CRIMINAL
6 PENALTY FOR THE UNLAWFUL MANUFACTURE OF
7 METHAMPHETAMINE, AND TO INCREASE THE CRIMINAL PENALTY FOR
8 THE POSSESSION OF PRECURSOR SUBSTANCES FOR
9 METHAMPHETAMINE, AS RECOMMENDED BY THE JOINT LEGISLATIVE
10 CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT
11 COMMITTEE, AND TO REQUIRE THE COMMISSION FOR HEALTH
12 SERVICES TO ESTABLISH DECONTAMINATION STANDARDS FOR
13 PROPERTY USED FOR THE MANUFACTURE OF METHAMPHETAMINE.
14

15 The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 **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.** Article 8 of Chapter 130A of the General Statutes is amended
8 by adding a new Part to read:

9 "Part 12. Decontamination Standards for Methamphetamine Sites.

10
11 **"§ 130A-284. Decontamination of property used for the manufacture of**
12 **methamphetamine.**

13 For the protection of the public health, the Commission shall adopt rules establishing
14 decontamination standards to ensure that certain property is reasonably safe for
15 habitation. An owner, lessee, operator or other person in control of a residence or place
16 of business or any structure appurtenant to a residence or place of business, and who has
17 knowledge that the property has been used for the manufacture of methamphetamine,
18 shall comply with these rules. For purposes of this section, the terms "residence" and
19 "place of business" shall be defined as set forth in G.S. 130A-334."

20 **SECTION 7.** Sections 1 through 5 of this act become effective December 1,
21 2004, and apply to offenses committed on or after that date. Prosecutions for offenses
22 occurring before the effective date of this act are not abated or affected by this act, and
23 the statutes that would be applicable but for this act remain applicable to those
24 prosecutions. Section 6 of this act becomes effective January 1, 2005. The remainder of
25 this act is effective when it becomes law, at which time the Commission for Health
26 Services may adopt rules under Section 6 of this act.