

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

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

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

- (1) The person unlawfully sells at least one certain controlled substance.
- (2) The ingestion of the certain controlled substance or substances causes the death of the user.
- (3) The commission of the offense in subdivision (1) of this subsection was the proximate cause of the victim's death.
- (4) The person did not act with malice.

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

- (1) The person unlawfully sells at least one certain controlled substance.
- (2) The ingestion of the certain controlled substance or substances causes the death of the user.
- (3) The commission of the offense in subdivision (1) of this subsection was the proximate cause of the victim's death.
- (4) The person did not act with malice.
- (5) The person has a previous conviction under this section, G.S. 90-95(a)(1), 90-95.1, 90-95.4, 90-95.6, or trafficking in violation of G.S. 90-95(h), or a prior conviction in any federal or state court in the United States that is substantially similar to an offense listed, within seven years of the date of the offense. In calculating the seven-year period under this subdivision, any period of time during which the person was incarcerated in a local, state, or federal detention center, jail, or prison shall be excluded.

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

(e) **Lesser Included Offense.** – Death by distribution of certain controlled substances constitutes a lesser included offense of aggravated death by distribution of certain controlled substances in violation of this section.

(f) **Samaritan Protection.** – Nothing in this section shall be construed to restrict or interfere with the rights and immunities provided under G.S. 90-96.2.

(g) **Lawful Distribution.** – This section shall not apply to any of the following:

- (1) Issuing a valid prescription for a controlled substance for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice.
- (2) Dispensing, delivering, or administering a controlled substance pursuant to a prescription, by a pharmacy permitted under G.S. 90-85.21, a pharmacist, or an individual practitioner.

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

- (1) Death by distribution of certain controlled substances is a Class C felony.
- (2) Aggravated death by distribution of certain controlled substances is a Class B2 felony. (2019-83, s. 1.)