

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH10816-LH-156A (3/10)

Short Title: Possess Prescription Drug/Not Drug Traffick.

(Public)

Sponsors: Representative Sutton.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT POSSESSION OF CERTAIN PRESCRIPTION DRUGS IS
3 NOT PUNISHABLE AS TRAFFICKING IN OPIUM OR HEROIN AND TO SET OUT
4 THE CRIMINAL PENALTY FOR THAT OFFENSE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 90-95(h)(4) reads as rewritten:

7 "(4) ~~Any~~ Except as provided in subsection (j) of this section, any person who
8 sells, manufactures, delivers, transports, or possesses four grams or more of
9 opium or opiate, or any salt, compound, derivative, or preparation of opium
10 or opiate (except apomorphine, nalbuphine, analoxone and naltrexone and
11 their respective salts), including heroin, or any mixture containing such
12 substance, shall be guilty of a felony which felony shall be known as
13 "trafficking in opium or heroin" and if the quantity of such controlled
14 substance or mixture involved:

- 15 a. Is four grams or more, but less than 14 grams, such person shall be
16 punished as a Class F felon and shall be sentenced to a minimum
17 term of 70 months and a maximum term of 84 months in the State's
18 prison and shall be fined not less than fifty thousand dollars
19 (\$50,000);
20 b. Is 14 grams or more, but less than 28 grams, such person shall be
21 punished as a Class E felon and shall be sentenced to a minimum
22 term of 90 months and a maximum term of 117 months in the State's
23 prison and shall be fined not less than one hundred thousand dollars
24 (\$100,000);
25 c. Is 28 grams or more, such person shall be punished as a Class C
26 felon and shall be sentenced to a minimum term of 225 months and a
27 maximum term of 279 months in the State's prison and shall be fined
28 not less than five hundred thousand dollars (\$500,000)."

29 **SECTION 2.** G.S. 90-95 is amended by adding a new subsection to read:

30 "(j) Notwithstanding G.S. 90-95(h)(4), any person who, in violation of G.S. 90-95(a)(3),
31 possesses a controlled substance in Schedule II that is a synthetic opioid of oxycodone
32 hydrochloride combined with acetaminophen and that is a commercial drug product with FDA
33 approval manufactured and distributed by a pharmaceutical company lawfully doing business
34 in the United States shall not be punished for a violation of G.S. 90-95(h)(4) but instead shall



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1 be punished as provided by this subsection. If the quantity of the controlled substance or
2 mixture involved:

3 (1) Is less than 250 tablets, capsules, or other dosage units, the person shall be
4 punished as a Class I felon;

5 (2) Is 250 tablets, capsules, or other dosage units or more, but less than 500
6 tablets, capsules, or other dosage units, the person shall be punished as a
7 Class G felon;

8 (3) Is 500 tablets, capsules, or other dosage units or more, but less than 1,000
9 tablets, capsules, or other dosage units, the person shall be punished as a
10 Class F felon;

11 (4) Is 1,000 tablets, capsules, or other dosage units or more, the person shall be
12 punished as a Class D felon."

13 **SECTION 3.** This act becomes effective December 1, 2009, and applies to
14 offenses committed on or after that date. Prosecutions for offenses committed before the
15 effective date of this act are not abated or affected by this act, and the statutes that would be
16 applicable but for this act remain applicable to those prosecutions.