

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 29

Short Title: Methamphetamine/Offense/Penalties. (Public)

Sponsors: Representatives Horn, Faircloth, Tolson, and Stevens (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee C.

January 31, 2013

A BILL TO BE ENTITLED

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

8 (2) A disabled or elder adult resided on the property used for the manufacture of
9 methamphetamine, or was present at a location where methamphetamine
10 was being manufactured, then the person shall have the minimum term of
11 imprisonment to which the person is sentenced for that felony increased by
12 24 months. The maximum term of imprisonment shall be the maximum term
13 that corresponds to the minimum term after it is increased by 24 months, as
14 specified in G.S. 15A-1340.17(e) and (e1).

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

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

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

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

32 (1) ~~that the~~ The defendant committed the offense of manufacture of
33 methamphetamine and that as a result of the offense a law enforcement
34 officer, probation officer, parole officer, emergency medical services
35 employee, or firefighter suffered serious injury while discharging or
36 attempting to discharge his or her official duties. ~~One pleading is sufficient~~
37 for all felonies that are tried at a single trial.

38 (2) The defendant committed the offense of manufacture of methamphetamine
39 and that a minor resided on the property used for manufacturing the
40 methamphetamine, or was present at a location where methamphetamine
41 was being manufactured.

42 (3) The defendant committed the offense of manufacture of methamphetamine
43 and that a disabled or elder adult resided on the property used for
44 manufacturing the methamphetamine, or was present at a location where
45 methamphetamine was being manufactured.

46 (4) The defendant committed the offense of manufacture of methamphetamine
47 and that a minor and a disabled or elder adult resided on the property used
48 for manufacturing the methamphetamine, or were present at a location where
49 methamphetamine was being manufactured.

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

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

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

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