

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S

D

SENATE BILL 352
PROPOSED HOUSE COMMITTEE SUBSTITUTE S352-PCS15395-TQ-31

Short Title: Amend NC Controlled Substances Act.

(Public)

Sponsors:

Referred to:

March 26, 2019

1 A BILL TO BE ENTITLED
2 AN ACT REVISING THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 90-87 reads as rewritten:

5 "§ 90-87. Definitions.

6 As used in this Article:

7 ...

8 (13a) "Hemp" means the plant *Cannabis sativa* (L.) and any part of that plant,
9 including the seeds thereof and all derivatives, extracts, cannabinoids,
10 isomers, acids, salts, and salts of isomers, whether growing or not, within a
11 delta-9 THC concentration of three-tenths percent (0.3%) on a dry weight
12 basis.

13 (13b) "Hemp extract" means an extract from hemp, or a mixture or preparation
14 containing hemp plant material or compounds, within a delta-9 THC
15 concentration of three-tenths percent (0.3%) on a dry weight basis.

16 (13c) "Hemp product" means any product within a delta-9 THC concentration of
17 three-tenths percent (0.3%) on a dry weight basis derived from, or made by,
18 processing hemp plants or plant parts, that are prepared in a form available for
19 commercial sale, including, but not limited to, cosmetics, personal care
20 products, food intended for animal or human consumption as approved by the
21 United States Food and Drug Administration or the United States Department
22 of Agriculture, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics,
23 and any product containing one or more hemp-derived cannabinoids, such as
24 cannabidiol. "Hemp product" does not include smokable hemp.

25 ...

26 (14a) The term "isomer" means any type of isomer, including structural, geometric,
27 or optical isomers, and stereoisomers.
28 the optical isomer, unless otherwise
29 specified.

30 ...

31 (16) "Marijuana" means all parts of the plant of the genus *Cannabis*, whether
32 growing or not; the seeds thereof; the resin extracted from any part of such
33 plant; and every compound, manufacture, salt, derivative, mixture, or
34 preparation of such plant, its seeds or resin, but shall not include the mature
35 stalks of such plant, fiber produced from such stalks, oil, or cake made from
36 the seeds of such plant, any other compound, manufacture, salt, derivative,
mixture, or preparation of such mature stalks (except the resin extracted



* S 3 5 2 - P C S 1 5 3 9 5 - T Q - 3 1 *

therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. The term "marijuana" also includes smokable hemp. The term does not include industrial hemp as defined in G.S. 106-568.51, when the industrial hemp is produced and used in compliance with rules issued by the North Carolina Industrial Hemp Commission. hemp, when in the possession, custody, or control of a person who holds a license permitting that person to cultivate or handle hemp; hemp products; or hemp extracts. A licensed cultivator or licensed handler may possess raw hemp plant material for the purpose of (i) selling the raw hemp plant material to a licensed handler or a person who may legally receive the raw hemp plant material in that person's jurisdiction or (ii) processing the raw hemp plant material into a hemp product or hemp extract.

(17) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- a. Opium, opiate and opioid, and any salt, compound, derivative, or preparation of opium, opiate, or opioid.
- b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause a, but not including the isoquinoline alkaloids of opium.
- c. Opium poppy and poppy straw.
- d. Cocaine and any salt, ~~isomer,~~ isomer (whether optical or geometric), salts of isomers, compound, derivative, or preparation thereof, or coca leaves and any salt, isomer, salts of isomers, compound, derivative or preparation of coca leaves, or any salt, isomer, salts of isomers, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocanized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

...
 (25a) "Smokable hemp" means harvested raw or dried hemp plant material, in a form intended to allow THC to be introduced into the human body by inhalation of smoke, including hemp buds or hemp flowers, hemp cigars, and hemp cigarettes. "Smokable hemp" does not include hemp extracts.

...."

SECTION 2. G.S. 90-89 reads as rewritten:

"§ 90-89. Schedule I controlled substances.

This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this schedule, the Commission shall find: a high potential for abuse, no currently accepted medical use in the United States, or a lack of accepted safety for use in treatment under medical supervision. The following controlled substances are included in this schedule:

- (1) Opiates. – Any of the following opiates or opioids, including the isomers, esters, ethers, salts and salts of isomers, esters, and ethers, unless specifically excepted, or listed in another schedule, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

...

- 1 hh. Levophenacylmorphan. For purposes of this sub-subdivision only, the
2 term "isomer" includes the optical and geometric isomers.
3 ...
4 mmm.
5 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-isopropylbenz
6 amide (also known as Isopropyl-U-47700).
7 nnn.
8 2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-met
9 hylacetamide (also known as U-51754).
10 ooo.
11 2-(2,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-met
12 hylacetamide (also known as U-48800).
13 (1a) Fentanyl derivatives. – Any compounds ~~Unless specifically excepted, listed~~
14 in another schedule, or contained within a pharmaceutical product approved
15 by the United States Food and Drug Administration, any compound
16 structurally derived from
17 N-[1-(2-phenylethyl)-4-piperidiny]-N-phenylpropanamide (Fentanyl) by any
18 substitution on or replacement of the phenethyl group, any substitution on the
19 piperidine ring, any substitution on or replacement of the propanamide group,
20 any substitution on the anilido phenyl group, or any combination of the above
21 unless specifically excepted or listed in another schedule to include their salts,
22 isomers, and salts of isomers. Fentanyl derivatives include, but are not limited
23 to, the following:
24 ...
25 (2) Opium derivatives. – Any of the following opium derivatives, including their
26 salts, ~~isomers, isomers~~ (whether optical, positional, or geometric), and salts of
27 isomers, unless specifically excepted, or listed in another schedule, whenever
28 the existence of such salts, isomers, and salts of isomers is possible within the
29 specific chemical designation:
30 ...
31 (3) Hallucinogenic substances. – Any material, compound, mixture, or
32 preparation which contains any quantity of the following hallucinogenic
33 substances, including their salts, isomers, and salts of isomers, unless
34 specifically excepted, or listed in another schedule, whenever the existence of
35 such salts, ~~isomers, isomers~~ (whether optical, positional, or geometric), and
36 salts of isomers is possible within the specific chemical designation:
37 ...
38 nn. Substituted Tryptamines. – Any compound, unless specifically
39 excepted, specifically named in this schedule, or listed under a
40 different schedule, structurally derived from
41 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or
42 di-substitution of the amine nitrogen with alkyl or alkenyl groups or
43 by inclusion of the amino nitrogen atom in a cyclic structure whether
44 or not the compound is further substituted at the alpha position with
45 an alkyl group or whether or not further substituted on the indole ring
46 to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy
47 groups. Substances in this class include, but are not limited to:
48 4-AcO-DiPT (4-acetoxy-N,N-diisopropyltryptamine), 4-HO-MPMI
49 ((R)-3-(N-methylpyrrolidin-2-ylmethyl)-4-hydroxyindole), and DALT
50 (N,N-diallyltryptamine).

1 oo. Substituted Phenylcyclohexylamines. – Any compound, unless
2 specifically excepted or unless listed in another schedule, or contained
3 within a pharmaceutical product approved by the United States Food
4 and Drug Administration, any material, compound, mixture, or
5 preparation containing a phenylcyclohexylamine structure, with or
6 without any substitution on the phenyl ring, any substitution on the
7 cyclohexyl ring, any replacement of the phenyl ring with a thiophenyl
8 or benzothiophenyl ring, with or without substitution on the amine
9 with alkyl, dialkyl, or alkoxy substituents, inclusion of the nitrogen in
10 a cyclic structure, or any combination of the above. Substances in this
11 class include, but are not limited to: BCP (benocyclidine), PCMPA
12 ((phenylcyclohexyl(methoxypropylamine)), and Hydroxy-PCP
13 ((hydroxyphenyl)cyclohexylpiperidine).

14 (4) Systemic depressants. – Any material compound, mixture, or preparation
15 which contains any quantity of the following substances having a depressant
16 effect on the central nervous system, including its salts, isomers, and salts of
17 isomers whenever the existence of such salts, isomers, and salts of isomers is
18 possible within the specific chemical designation, unless specifically excepted
19 or unless listed in another schedule:

20 ...

21 g. Designer Benzodiazepines – Unless specifically excepted or listed in
22 another schedule, or contained within a pharmaceutical product
23 approved by the United States Food and Drug Administration, any
24 material, compound, derivative, mixture, or preparation, including its
25 salts, isomers, salts of isomers, halogen analogues, or homologues,
26 whenever the existence of such salts, isomers, or salts of isomers,
27 halogen analogues, or homologues is possible within the specific
28 chemical designation, structurally derived from 1,4-benzodiazepine by
29 substitution at the 5-position with a phenyl ring system (which may be
30 further substituted), whether or not the compound is further modified
31 in any of the following ways:

- 32 1. By substitution at the 2-position with a ketone;
- 33 2. By substitution at the 3-position with a hydroxyl group or ester
34 group, which itself may be further substituted;
- 35 3. By a fused triazole ring at the 1,2-position, which itself may be
36 further substituted;
- 37 4. By a fused imidazole ring at the 1,2-position, which itself may
38 be further substituted;
- 39 5. By a fused oxazolidine ring at the 4,5-position, which itself
40 may be further substituted;
- 41 6. By a fused oxazine ring at the 4,5-position, which itself may
42 be further substituted;
- 43 7. By substitution at the 7-position with a nitro group;
- 44 8. By substitution at the 7-position with a halogen group; or
- 45 9. By substitution at the 1-position with an alkyl group, which
46 itself may be further substituted.

47 (5) Stimulants. – Unless specifically excepted or unless listed in another schedule,
48 any material, compound, mixture, or preparation that contains any quantity of
49 the following substances having a stimulant effect on the central nervous
50 system, including its salts, isomers, and salts of isomers:

51 ...

- 1 h. 4-methylmethcathinone (also known as mephedrone). For this
2 compound, the term "isomer" includes the optical, positional, or
3 geometric isomer.
- 4 i. 3,4-Methylenedioxypropylamphetamine (also known as MDPV). For this
5 compound, the term "isomer" includes the optical, positional, or
6 geometric isomer.
- 7 j. Substituted cathinones. A compound, other than bupropion, that is
8 structurally derived from 2-amino-1-phenyl-1-propanone by
9 modification in any of the following ways: (i) by substitution in the
10 phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl,
11 or halide substituents, whether or not further substituted in the phenyl
12 ring by one or more other univalent substituents; (ii) by substitution at
13 the 3-position to any extent; or (iii) by substitution at the nitrogen atom
14 with alkyl, dialkyl, benzyl, or methoxybenzyl groups or by inclusion
15 of the nitrogen atom in a cyclic structure. For the purpose of this
16 paragraph, the term "isomer" includes the optical, positional, or
17 geometric isomer.
- 18 ...
- 19 (6) NBOMe compounds. – Any material compound, mixture, or preparation
20 which contains any quantity of the following substances, including its salts,
21 ~~isomers,~~ isomers (whether optical, positional, or geometric), and salts of
22 isomers whenever the existence of such salts, isomers, and salts of isomers is
23 possible within the specific chemical designation unless specifically excepted
24 or unless listed in another schedule:
- 25 ...
- 26 (8) Substituted Phenethylamines. – This includes any compound, unless
27 specifically excepted, specifically named or included in another subset in this
28 schedule, or listed under a different schedule, structurally derived from
29 phenylethan-2-amine by substitution on the phenyl ring in any of the
30 following ways, that is to say, by substitution with a fused methylenedioxy
31 ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two
32 alkoxy groups; by substitution with one alkoxy and either one fused furan,
33 tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two
34 fused ring systems from any combination of the furan, tetrahydrofuran, or
35 tetrahydropyran ring systems. Whether or not the compound is further
36 modified in any of the following ways, that is to say: (i) by substitution of
37 phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or allylthio
38 groups, (ii) by substitution at the 2-position by any alkyl groups, or (iii) by
39 substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl,
40 hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.
41 Substances in this class include, but are not limited to: 2C-I
42 (4-Iodo-2,5-dimethoxyphenethylamine), APDB
43 ((2-aminopropyl)-2,3-dihydrobenzofuran), MBDB
44 (3,4-methylenedioxy-N-methylbutanamine), and 2C-I-NBOH
45 (N-(2-hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine).
- 46 (9) N-Benzyl Phenethylamines. – Unless specifically excepted or listed in another
47 schedule, or contained within a pharmaceutical product approved by the
48 United States Food and Drug Administration, any material, compound,
49 mixture, or preparation, including its salts, isomers (whether optical,
50 geometric, or positional), esters, or ethers, and salts of isomers, esters, or
51 ethers, whenever the existence of such salts is possible within any of the

1 following specific chemical designations, any compound containing a
2 phenethylamine structure without a beta-keto group, with substitution on the
3 nitrogen atom of the amino group with a benzyl substituent, with or without
4 substitution on the phenyl or benzyl ring to any extent with alkyl, alkoxy, thio,
5 alkylthio, halide, fused alkylendioxy, fused furan, fused benzofuran, or fused
6 tetrahydropyran substituents, whether or not further substituted on a ring to
7 any extent, with or without substitution at the alpha position by any alkyl
8 substituent. Substances in this class include, but are not limited to:
9 25B-NBOH
10 (4-bromo-2,5-dimethoxy-[N-(2-hydroxybenzyl)]phenethylamine), 25I-NBF
11 (4-iodo-2,5-dimethoxy-[N-(2-fluorobenzyl)]phenethylamine), and
12 25C-NBMD
13 (4-chloro-2,5-dimethoxy-[N-(2,3-methylenedioxybenzyl)]phenethylamine).

14 **SECTION 3.** G.S. 90-90(1) reads as rewritten:

15 "(1) Any of the following substances whether produced directly or indirectly by
16 extraction from substances of vegetable origin, or independently by means of
17 chemical synthesis, or by a combination of extraction and chemical synthesis,
18 unless specifically excepted or unless listed in another schedule:

19 ...

20 d. Cocaine and any salt, ~~isomer~~, isomer (whether optical or geometric),
21 salts of isomers, compound, derivative, or preparation thereof, or coca
22 leaves and any salt, isomer, salts of isomers, compound, derivative, or
23 preparation of coca leaves, or any salt, isomer, salts of isomers,
24 compound, derivative, or preparation thereof which is chemically
25 equivalent or identical with any of these substances, except that the
26 substances shall not include decocanized coca leaves or extraction of
27 coca leaves, which extractions do not contain cocaine or ecgonine.

28"

29 **SECTION 4.** G.S. 90-91(j) reads as rewritten:

30 "(j) Any material, compound, mixture, or preparation which contains any quantity of the
31 following substances having a stimulant effect on the central nervous system, including its salts,
32 ~~isomers~~, isomers (whether optical, positional, or geometric), and salts of said isomers whenever
33 the existence of such salts, isomers, and salts of isomers is possible within the specific chemical
34 designation, unless specifically excluded or listed in some other schedule.

- 35 1. Benzphetamine.
- 36 2. Chlorphentermine.
- 37 3. Clortermine.
- 38 4. Repealed by Session Laws 1987, c. 412, s. 10.
- 39 5. Phendimetrazine."

40 **SECTION 5.** G.S. 90-92(a) reads as rewritten:

41 **"§ 90-92. Schedule IV controlled substances.**

42 (a) This schedule includes the controlled substances listed or to be listed by whatever
43 official name, common or usual name, chemical name, or trade name designated. In determining
44 that a substance comes within this schedule, the Commission shall find: a low potential for abuse
45 relative to the substances listed in Schedule III of this Article; currently accepted medical use in
46 the United States; and limited physical or psychological dependence relative to the substances
47 listed in Schedule III of this Article. The following controlled substances are included in this
48 schedule:

- 49 (1) Depressants. – Unless specifically excepted or unless listed in another
50 schedule, any material, compound, mixture, or preparation which contains any
51 quantity of the following substances, including its salts, isomers, and salts of

isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

...
 m1. Desalkylflurazepam.

...
 n2. Diclazepam.
 ...

- (2) Any material, compound, mixture, or preparation which contains any of the following substances, including its salts, or isomers and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:
 - a. Fenfluramine. For this compound, the term "isomer" includes the optical, positional, or geometric isomer.
 - b. Pentazocine.

...."

SECTION 6. G.S. 90-94 reads as rewritten:

"§ 90-94. Schedule VI controlled substances.

This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that such substance comes within this schedule, the Commission shall find: no currently accepted medical use in the United States, or a relatively low potential for abuse in terms of risk to public health and potential to produce psychic or physiological dependence liability based upon present medical knowledge, or a need for further and continuing study to develop scientific evidence of its pharmacological effects.

The following controlled substances are included in this schedule:

- (1) Marijuana.
- (2) ~~Tetrahydrocannabinols.~~ Tetrahydrocannabinols, except for tetrahydrocannabinols in hemp products or hemp extracts.
- (3) Repealed by Session Laws 2017-115, s. 8, effective December 1, 2017, and applicable to offenses committed on or after that date."

SECTION 7. G.S. 90-95(h)(3) reads as rewritten:

- "(3) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of cocaine and any salt, ~~isomer,~~ isomer (whether optical or geometric), salts of isomers, compound, derivative, or preparation thereof, or any coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, and any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocainized coca leaves or any extraction of coca leaves which does not contain cocaine) or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as "trafficking in cocaine" and if the quantity of such substance or mixture involved:
 - a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 51 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 93 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);

1 c. Is 400 grams or more, such person shall be punished as a Class D felon
2 and shall be sentenced to a minimum term of 175 months and a
3 maximum term of 222 months in the State's prison and shall be fined
4 at least two hundred fifty thousand dollars (\$250,000)."

5 **SECTION 8.** This act becomes effective December 1, 2019, and applies to offenses
6 committed on or after that date.