

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 853

Short Title: Death by Distribution of Drugs. (Public)

Sponsors: Senators Clodfelter; Dannelly, Graham, and Pittenger.

Referred to: Judiciary I.

March 23, 2005

A BILL TO BE ENTITLED

1 AN ACT TO CREATE THE CLASS E FELONY OFFENSE OF DEATH BY
2 DISTRIBUTION OF CERTAIN DRUGS AND REPEAL THE PROVISION THAT
3 DEATH CAUSED BY THE DISTRIBUTION OF CERTAIN DRUGS IS
4 PUNISHABLE AS SECOND DEGREE MURDER.
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6 The General Assembly of North Carolina enacts:

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

8 **"§ 14-17. Murder in the first and second degree defined; punishment.**

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

25 (b) Second Degree Murder. – All other kinds of ~~murder, including that which~~
26 ~~shall be proximately caused by the unlawful distribution of opium or any synthetic or~~
27 ~~natural salt, compound, derivative, or preparation of opium, or cocaine or other~~
28 ~~substance described in G.S. 90-90(1)d., or methamphetamine, when the ingestion of~~
29 ~~such substance causes the death of the user,~~ murder shall be deemed murder in the

1 second degree, and any person who commits such murder shall be punished as a Class
2 B2 felon."

3 **SECTION 2.** Article 6 of Chapter 14 of the General Statutes is amended by
4 adding a new section to read:

5 "**§ 14-18.3. Death caused by illegal distribution of certain drugs.**

6 The knowing, willful, and unlawful distribution of a controlled substance classified
7 in Schedule I or Schedule II under G.S. 90-89 or G.S. 90-90 is a Class E felony if the
8 controlled substance is sold, bartered, exchanged, given, or otherwise made available to
9 a person and the ingestion, injection, or absorbance of the controlled substance causes
10 the death of that person."

11 **SECTION 3.** This act becomes effective December 1, 2005, and applies to
12 offenses committed on or after that date. Prosecutions for offenses committed before
13 the effective date of this act are not abated or affected by this act, and the statutes that
14 would be applicable but for this act remain applicable to those prosecutions.