

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1079

Short Title: Drug Law Amendments.

(Public)

Sponsors: Representatives Watson; Gardner and Morris.

Referred to: Judiciary I.

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE CONTROLLED SUBSTANCES LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-95 reads as rewritten:

"§ 90-95. Violations; penalties.

(a) Except as authorized by this Article, it is unlawful for any person:

(1) To manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver, a controlled substance;

(2) To create, sell or deliver, or possess with intent to sell or deliver, a counterfeit controlled substance;

(3) To possess a controlled substance.

(b) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(1) with respect to:

(1) A controlled substance classified in Schedule I or II shall be punished as a Class ~~H~~E felon;

(2) A controlled substance classified in Schedule III, IV, V, or VI shall be punished as a Class ~~F~~G felon, but the transfer of less than 5 grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).

(c) Any person who violates G.S. 90-95(a)(2) shall be punished as a Class I felon.

1 (d) Except as provided in subsections (h) and (i) of this section, any person who
2 violates G.S. 90-95(a)(3) with respect to:

3 (1) A controlled substance classified in Schedule I shall be punished as a
4 Class ~~I~~G felon;

5 (2) A controlled substance classified in Schedule II, III, or IV shall be
6 guilty of a Class 1 misdemeanor. If the controlled substance exceeds
7 four tablets, capsules, or other dosage units or equivalent quantity of
8 hydromorphone or if the quantity of the controlled substance, or
9 combination of the controlled substances, exceeds one hundred tablets,
10 capsules or other dosage units, or equivalent quantity, the violation shall
11 be punishable as a Class ~~I~~G felony. If the controlled substance is
12 phencyclidine, or cocaine and any salt, isomer, salts of isomers,
13 compound, derivative, or preparation thereof, or coca leaves and any
14 salt, isomer, salts of isomers, compound, derivative, or preparation of
15 coca leaves, or any salt, isomer, salts of isomers, compound, derivative
16 or preparation thereof which is chemically equivalent or identical with
17 any of these substances (except decocanized coca leaves or any
18 extraction of coca leaves which does not contain cocaine or ecgonine),
19 the violation shall be punishable as a Class ~~I~~G felony.

20 (3) A controlled substance classified in Schedule V shall be guilty of a
21 Class ~~2 misdemeanor~~I felony;

22 (4) A controlled substance classified in Schedule VI shall be guilty of a
23 Class 3 misdemeanor, but any sentence of imprisonment imposed must
24 be suspended and the judge may not require at the time of sentencing
25 that the defendant serve a period of imprisonment as a special condition
26 of probation. If the quantity of the controlled substance exceeds one-half
27 of an ounce (avoirdupois) of marijuana or one-twentieth of an ounce
28 (avoirdupois) of the extracted resin of marijuana, commonly known as
29 hashish, the violation shall be punishable as a Class 1 misdemeanor. If
30 the quantity of the controlled substance exceeds one and one-half
31 ounces (avoirdupois) of marijuana or three-twentieths of an ounce
32 (avoirdupois) of the extracted resin of marijuana, commonly known as
33 hashish, or if the controlled substance consists of any quantity of
34 synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated from
35 the resin of marijuana, the violation shall be punishable as a Class I
36 felony.

37 (d1) Except as authorized by this Article, it is unlawful for any person to:

38 (1) Possess an immediate precursor chemical with intent to manufacture a
39 controlled substance; or

40 (2) Possess or distribute an immediate precursor chemical knowing, or
41 having reasonable cause to believe, that the immediate precursor
42 chemical will be used to manufacture a controlled substance.

43 Any person who violates this subsection shall be punished as a Class H felon.

1 (d2) The immediate precursor chemicals to which subsection (d1) of this section
2 applies are those immediate precursor chemicals designated by the Commission pursuant
3 to its authority under G.S. 90-88, and the following (until otherwise specified by the
4 Commission):

- 5 (1) Anthranilic acid.
- 6 (2) Benzyl cyanide.
- 7 (3) Chloroephedrine.
- 8 (4) Chloropseudoephedrine.
- 9 (5) D-lysergic acid.
- 10 (6) Ephedrine.
- 11 (7) Ergonovine maleate.
- 12 (8) Ergotamine tartrate.
- 13 (9) Ethyl Malonate.
- 14 (10) Ethylamine.
- 15 (11) Isosafrole.
- 16 (12) Malonic acid.
- 17 (13) Methylamine.
- 18 (14) N-acetylanthranilic acid.
- 19 (15) N-ethylephedrine.
- 20 (16) N-ethylepseudoephedrine.
- 21 (17) N-methylephedrine.
- 22 (18) N-methylpseudoephedrine.
- 23 (19) Norpseudoephedrine.
- 24 (20) Phenyl-2-propane.
- 25 (21) Phenylacetic acid.
- 26 (22) Phenylpropanolamine.
- 27 (23) Piperidine.
- 28 (24) Piperonal.
- 29 (25) Propionic anhydride.
- 30 (26) Pseudoephedrine.
- 31 (27) Pyrrolidine.
- 32 (28) Safrole.
- 33 (29) Thionylchloride.

34 (e) The prescribed punishment and degree of any offense under this Article shall
35 be subject to the following conditions, but the punishment for an offense may be
36 increased only by the maximum authorized under any one of the applicable conditions:

- 37 (1), (2) Repealed by Session Laws 1979, c. 760, s. 5.
- 38 (3) If any person commits a Class 1 misdemeanor under this Article and if
39 he has previously been convicted for one or more offenses under any
40 law of North Carolina or any law of the United States or any other state,
41 which offenses are punishable under any provision of this Article, he
42 shall be punished as a Class I felon. The prior conviction used to raise

- 1 the current offense to a Class I felony shall not be used to calculate the
2 prior record level;
- 3 (4) If any person commits a Class 2 misdemeanor, and if he has previously
4 been convicted for one or more offenses under any law of North
5 Carolina or any law of the United States or any other state, which
6 offenses are punishable under any provision of this Article, he shall be
7 guilty of a Class 1 misdemeanor. The prior conviction used to raise the
8 current offense to a Class 1 misdemeanor shall not be used to calculate
9 the prior conviction level;
- 10 (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by
11 selling or delivering a controlled substance to a person under 16 years of
12 age or a pregnant female shall be punished as a Class D felon. Mistake
13 of age is not a defense to a prosecution under this section. It shall not be
14 a defense that the defendant did not know that the recipient was
15 pregnant;
- 16 (6) For the purpose of increasing punishment under G.S. 90-95(e)(3) and
17 (e)(4), previous convictions for offenses shall be counted by the number
18 of separate trials at which final convictions were obtained and not by the
19 number of charges at a single trial;
- 20 (7) If any person commits an offense under this Article for which the
21 prescribed punishment requires that any sentence of imprisonment be
22 suspended, and if he has previously been convicted for one or more
23 offenses under any law of North Carolina or any law of the United
24 States or any other state, which offenses are punishable under any
25 provision of this Article, he shall be guilty of a Class 2 misdemeanor;
- 26 (8) Any person 21 years of age or older who commits an offense under G.S.
27 90-95(a)(1) on property used for an elementary or secondary school or
28 within 300 feet of the boundary of real property used for an elementary
29 or secondary school shall be punished as a Class E felon. For purposes
30 of this subdivision, the transfer of less than five grams of marijuana for
31 no remuneration shall not constitute a delivery in violation of G.S. 90-
32 95(a)(1).
- 33 (9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal
34 institution or local confinement facility shall be guilty of a Class ~~I~~G
35 felony.
- 36 (f) Any person convicted of an offense or offenses under this Article who is
37 sentenced to an active term of imprisonment that is less than the maximum active term
38 that could have been imposed may, in addition, be sentenced to a term of special
39 probation. Except as indicated in this subsection, the administration of special probation
40 shall be the same as probation. The conditions of special probation shall be fixed in the
41 same manner as probation, and the conditions may include requirements for rehabilitation
42 treatment. Special probation shall follow the active sentence. No term of special
43 probation shall exceed five years. Special probation may be revoked in the same manner

1 as probation; upon revocation, the original term of imprisonment may be increased by no
2 more than the difference between the active term of imprisonment actually served and the
3 maximum active term that could have been imposed at trial for the offense or offenses for
4 which the person was convicted, and the resulting term of imprisonment need not be
5 diminished by the time spent on special probation.

6 (g) Whenever matter is submitted to the North Carolina State Bureau of
7 Investigation Laboratory, the Charlotte, North Carolina, Police Department Laboratory or
8 to the Toxicology Laboratory, Reynolds Health Center, Winston-Salem for chemical
9 analysis to determine if the matter is or contains a controlled substance, the report of that
10 analysis certified to upon a form approved by the Attorney General by the person
11 performing the analysis shall be admissible without further authentication in all
12 proceedings in the district court division of the General Court of Justice as evidence of
13 the identity, nature, and quantity of the matter analyzed.

14 (h) Notwithstanding any other provision of law, the following provisions apply
15 except as otherwise provided in this Article.

16 (1) Any person who sells, manufactures, delivers, transports, or possesses
17 in excess of ~~50 pounds~~ one pound (avoirdupois) of marijuana shall be
18 guilty of a felony which felony shall be known as 'trafficking in
19 marijuana' and if the quantity of such substance involved:

20 a. Is in excess of ~~50 pounds~~ one pound, but less than ~~400-10~~ 10 pounds,
21 such person shall be punished as a Class H felon and shall be
22 sentenced to a minimum term of 25 months and a maximum term
23 of 30 months in the State's prison and shall be fined not less than
24 five thousand dollars (\$5,000);

25 b. Is ~~100-10~~ 10 pounds or more, but less than ~~2,000-200~~ 200 pounds, such
26 person shall be punished as a Class G felon and shall be
27 sentenced to a minimum term of 35 months and a maximum term
28 of 42 months in the State's prison and shall be fined not less than
29 twenty-five thousand dollars (\$25,000);

30 c. Is ~~2,000-200~~ 200 pounds or more, but less than ~~10,000-1,000~~ 1,000 pounds,
31 such person shall be punished as a Class F felon and shall be
32 sentenced to a minimum term of 70 months and a maximum term
33 of 84 months in the State's prison and shall be fined not less than
34 fifty thousand dollars (\$50,000);

35 d. Is ~~10,000-1,000~~ 1,000 pounds or more, such person shall be punished as
36 a Class D felon and shall be sentenced to a minimum term of 175
37 months and a maximum term of 219 months in the State's prison
38 and shall be fined not less than two hundred thousand dollars
39 (\$200,000).

40 (2) Any person who sells, manufactures, delivers, transports, or possesses
41 1,000 tablets, capsules or other dosage units, or the equivalent quantity,
42 or more of methaqualone, or any mixture containing such substance,
43 shall be guilty of a felony which felony shall be known as 'trafficking in

1 methaqualone' and if the quantity of such substance or mixture
2 involved:

- 3 a. Is 1,000 or more dosage units, or equivalent quantity, but less
4 than 5,000 dosage units, or equivalent quantity, such person shall
5 be punished as a Class G felon and shall be sentenced to a
6 minimum term of 35 months and a maximum term of 42 months
7 in the State's prison and shall be fined not less than twenty-five
8 thousand dollars (\$25,000);
- 9 b. Is 5,000 or more dosage units, or equivalent quantity, but less
10 than 10,000 dosage units, or equivalent quantity, such person
11 shall be punished as a Class F felon and shall be sentenced to a
12 minimum term of 70 months and a maximum term of 84 months
13 in the State's prison and shall be fined not less than fifty thousand
14 dollars (\$50,000);
- 15 c. Is 10,000 or more dosage units, or equivalent quantity, such
16 person shall be punished as a Class D felon and shall be
17 sentenced to a minimum term of 175 months and a maximum
18 term of 219 months in the State's prison and shall be fined not
19 less than two hundred thousand dollars (\$200,000).

20 (3) Any person who sells, manufactures, delivers, transports, or possesses
21 28 grams or more of cocaine and any salt, isomer, salts of isomers,
22 compound, derivative, or preparation thereof, or any coca leaves and
23 any salt, isomer, salts of isomers, compound, derivative, or preparation
24 of coca leaves, and any salt, isomer, salts of isomers, compound,
25 derivative or preparation thereof which is chemically equivalent or
26 identical with any of these substances (except decocainized coca leaves
27 or any extraction of coca leaves which does not contain cocaine) or any
28 mixture containing such substances, shall be guilty of a felony, which
29 felony shall be known as 'trafficking in cocaine' and if the quantity of
30 such substance or mixture involved:

- 31 a. Is 28 grams or more, but less than 200 grams, such person shall
32 be punished as a Class G felon and shall be sentenced to a
33 minimum term of ~~35-70~~ months and a maximum term of ~~42-84~~
34 months in the State's prison and shall be fined not less than fifty
35 thousand dollars (\$50,000);
- 36 b. Is 200 grams or more, but less than 400 grams, such person shall
37 be punished as a Class F felon and shall be sentenced to a
38 minimum term of ~~70-140~~ months and a maximum term of ~~84-168~~
39 months in the State's prison and shall be fined not less than one
40 hundred thousand dollars (\$100,000);
- 41 c. Is 400 grams or more, such person shall be punished as a Class D
42 felon and shall be sentenced to a minimum term of ~~175-350~~
43 months and a maximum term of ~~219-400~~ months in the State's

- 1 prison and shall be fined at least two hundred fifty thousand
2 dollars (\$250,000).
- 3 (3a) Any person who sells, manufactures, delivers, transports, or possesses
4 1,000 tablets, capsules or other dosage units, or the equivalent quantity,
5 or more of amphetamine, its salts, optical isomers, and salts of its
6 optical isomers or any mixture containing such substance, shall be
7 guilty of a felony which felony shall be known as 'trafficking in
8 amphetamine' and if the quantity of such substance or mixture involved:
9 a. Is 1,000 or more dosage units, or equivalent quantity, but less
10 than 5,000 dosage units, or equivalent quantity, such person shall
11 be punished as a Class G felon and shall be sentenced to a
12 minimum term of 35 months and a maximum term of 42 months
13 in the State's prison and shall be fined not less than twenty-five
14 thousand dollars (\$25,000);
15 b. Is 5,000 or more dosage units, or equivalent quantity, but less
16 than 10,000 dosage units, or equivalent quantity, such person
17 shall be punished as a Class F felon and shall be sentenced to a
18 minimum term of 70 months and a maximum term of 84 months
19 in the State's prison and shall be fined not less than fifty thousand
20 dollars (\$50,000);
21 c. Is 10,000 or more dosage units, or equivalent quantity, such
22 person shall be punished as a Class D felon and shall be
23 sentenced to a minimum term of 175 months and a maximum
24 term of 219 months in the State's prison and shall be fined not
25 less than two hundred thousand dollars (\$200,000).
- 26 (3b) Any person who sells, manufactures, delivers, transports, or possesses
27 28 grams or more of methamphetamine shall be guilty of a felony which
28 felony shall be known as 'trafficking in methamphetamine' and if the
29 quantity of such substance or mixture involved:
30 a. Is 28 grams or more, but less than 200 grams, such person shall
31 be punished as a Class G felon and shall be sentenced to a
32 minimum term of 35 months and a maximum term of 42 months
33 in the State's prison and shall be fined not less than fifty thousand
34 dollars (\$50,000);
35 b. Is 200 grams or more, but less than 400 grams, such person shall
36 be punished as a Class F felon and shall be sentenced to a
37 minimum term of 70 months and a maximum term of 84 months
38 in the State's prison and shall be fined not less than one hundred
39 thousand dollars (\$100,000);
40 c. Is 400 grams or more, such person shall be punished as a Class D
41 felon and shall be sentenced to a minimum term of 175 months
42 and a maximum term of 219 months in the State's prison and

- 1 shall be fined at least two hundred fifty thousand dollars
2 (\$250,000).
- 3 (4) Any person who sells, manufactures, delivers, transports, or possesses
4 four grams or more of opium or opiate, or any salt, compound,
5 derivative, or preparation of opium or opiate (except apomorphine,
6 nalbuphine, analoxone and naltrexone and their respective salts),
7 including heroin, or any mixture containing such substance, shall be
8 guilty of a felony which felony shall be known as 'trafficking in opium
9 or heroin' and if the quantity of such controlled substance or mixture
10 involved:
- 11 a. Is four grams or more, but less than 14 grams, such person shall
12 be punished as a Class F felon and shall be sentenced to a
13 minimum term of 70 months and a maximum term of 84 months
14 in the State's prison and shall be fined not less than fifty thousand
15 dollars (\$50,000);
- 16 b. Is 14 grams or more, but less than 28 grams, such person shall be
17 punished as a Class E felon and shall be sentenced to a minimum
18 term of 90 months and a maximum term of 117 months in the
19 State's prison and shall be fined not less than one hundred
20 thousand dollars (\$100,000);
- 21 c. Is 28 grams or more, such person shall be punished as a Class C
22 felon and shall be sentenced to a minimum term of 225 months
23 and a maximum term of 279 months in the State's prison and
24 shall be fined not less than five hundred thousand dollars
25 (\$500,000).
- 26 (4a) Any person who sells, manufactures, delivers, transports, or possesses
27 100 tablets, capsules, or other dosage units, or the equivalent quantity,
28 or more, of Lysergic Acid Diethylamide, or any mixture containing such
29 substance, shall be guilty of a felony, which felony shall be known as
30 'trafficking in Lysergic Acid Diethylamide'. If the quantity of such
31 substance or mixture involved:
- 32 a. Is 100 or more dosage units, or equivalent quantity, but less than
33 500 dosage units, or equivalent quantity, such person shall be
34 punished as a Class G felon and shall be sentenced to a minimum
35 term of 35 months and a maximum term of 42 months in the
36 State's prison and shall be fined not less than twenty-five
37 thousand dollars (\$25,000);
- 38 b. Is 500 or more dosage units, or equivalent quantity, but less than
39 1,000 dosage units, or equivalent quantity, such person shall be
40 punished as a Class F felon and shall be sentenced to a minimum
41 term of 70 months and a maximum term of 84 months in the
42 State's prison and shall be fined not less than fifty thousand
43 dollars (\$50,000);

- 1 c. Is 1,000 or more dosage units, or equivalent quantity, such
2 person shall be punished as a Class D felon and shall be
3 sentenced to a minimum term of 175 months and a maximum
4 term of 219 months in the State's prison and shall be fined not
5 less than two hundred thousand dollars (\$200,000).
- 6 (5) Except as provided in this subdivision, a person being sentenced under
7 this subsection may not receive a suspended sentence or be placed on
8 probation. The sentencing judge may reduce the fine, or impose a prison
9 term less than the applicable minimum prison term provided by this
10 subsection, or suspend the prison term imposed and place a person on
11 probation when such person has, to the best of his knowledge, provided
12 substantial assistance in the identification, arrest, or conviction of any
13 accomplices, accessories, co-conspirators, or principals if the sentencing
14 judge enters in the record a finding that the person to be sentenced has
15 rendered such substantial assistance.
- 16 (6) Sentences imposed pursuant to this subsection shall run consecutively
17 with and shall commence at the expiration of any sentence being served
18 by the person sentenced hereunder.
- 19 (i) The penalties provided in subsection (h) of this section shall also apply to any
20 person who is convicted of conspiracy to commit any of the offenses described in
21 subsection (h) of this section."

22 Section 2. Chapter 90 of the General Statutes is amended by adding a new
23 Article to read:

24 "ARTICLE 24.

25 "Drug Dealer Felons.

26 **"§ 90-325. Declaration of person as drug dealer felon; definitions.**

27 (a) Any person who has been convicted of a drug dealer felony in any federal
28 court, or in a court of this or any other state of the United States, is declared to be a drug
29 dealer felon.

30 (b) The following definitions apply in this Article:

31 (1) 'Convicted'. – The person has been adjudged guilty of or has entered a
32 plea of guilty or no contest to the drug dealer charge, and judgment has
33 been entered thereon when such action occurred on or after July 6,
34 1967. Any felony to which a pardon has been extended shall not, for
35 the purposes of this Article, constitute a felony. The burden of proving
36 a pardon shall rest with the defendant, and this State shall not be
37 required to disprove a pardon.

38 (2) 'Drug dealer felony'. – Includes the following offenses:

39 a. A violation of G.S. 90-95(a1).

40 b. Any trafficking offenses listed in G.S. 90-95(h).

41 c. A violation of G.S. 90-95(a2).

42 d. Any conspiracy or attempt to commit the offenses listed in
43 subdivision (1), (2), or (3).

- 1 e. Any repealed or superseded offense substantially equivalent to
2 the offense listed in subdivision (1), (2), (3), or (4).
- 3 f. Any offense committed in another jurisdiction substantially
4 equivalent to the offenses set forth in subdivision (1), (2), (3),
5 (4), or (5).

6 **"§ 90-326. Punishment.**

7 When a person is charged by indictment with the commission of a drug dealer felony
8 and is also charged with being a drug dealer felon as defined in G.S. 90-325, the person
9 must, upon conviction, be sentenced in accordance with this Article unless some other
10 statute provides for greater punishment. In order for the punishment and sentencing
11 provisions of this Article to apply, the date of offense for the principal drug dealer felony
12 must occur after the conviction of the prior drug dealer felony which creates the status as
13 drug dealer felon.

14 **"§ 90-327. Charge of drug dealer felon.**

15 An indictment that charges a person who is a drug dealer felon within the meaning of
16 G.S. 90-325 with the commission of any drug dealer felony must, in order to sustain a
17 conviction of drug dealer felon, also charge that the person is a drug dealer felon. The
18 indictment charging the defendant as a drug dealer felon shall be separate from the
19 indictment charging the defendant with the principal drug dealer felony. An indictment
20 that charges a person with being a drug dealer felon must set forth the date that the prior
21 drug dealer felony was committed, the name of the state or other sovereign against whom
22 the drug dealer felony was committed, the date of conviction of the drug dealer felony,
23 and the identity of the court in which the conviction took place. A defendant charged
24 with being a drug dealer felon in a bill of indictment shall not be required to go to trial on
25 that charge within 20 days after the finding of a true bill by the grand jury unless the
26 defendant waives this 20-day period.

27 **"§ 90-328. Evidence of a prior conviction of a drug dealer felony.**

28 In all cases where a person is charged under this Article with being a drug dealer
29 felon, the record of a prior conviction of a drug dealer felon shall be admissible in
30 evidence, but only for the purpose of proving that the person has been convicted of a
31 former drug dealer felony. A prior conviction may be proved by stipulation of the parties
32 or by the original or a certified copy of the court record of the prior conviction. The
33 original or certified copy of the court record, bearing the same name as that by which the
34 defendant is charged, shall be prima facie evidence that the defendant named therein is
35 the same as the defendant before the court and shall be prima facie evidence of the facts
36 set out therein.

37 **"§ 90-329. Verdict and judgment.**

38 When an indictment charges a drug dealer felon with a drug dealer felony as provided
39 in this Article and an indictment also charges that the person is a drug dealer felon as
40 provided in this Article, the defendant shall be tried for the principal drug dealer felony as
41 provided by law. The indictment that the person is a drug dealer felon shall not be
42 revealed to the jury unless the jury finds the defendant guilty of the principal drug dealer
43 felony or another drug dealer felony with which the defendant is charged. If the jury

1 finds the defendant guilty of a drug dealer felony, the bill of indictment charging the
2 defendant as a drug dealer felon may be presented to the same jury. Except that the same
3 jury may be used, the proceedings shall be as if the issue of a drug dealer felon were a
4 principal charge. If the jury finds that the defendant is a drug dealer felon, the trial judge
5 shall enter judgment according to the provisions of this Article. If the jury finds that the
6 defendant is not a drug dealer felon, the trial judge shall pronounce judgment on the
7 principal drug dealer felony or felonies as provided by law.

8 **"§ 90-330. Sentencing of drug dealer felons.**

9 A person who is convicted of a drug dealer felony and of being a drug dealer felon
10 must, upon conviction, be sentenced as a Class B2 felon, unless other drug dealer felony
11 statutes provide for greater punishment. In determining the prior record level,
12 convictions used to establish a person's status as a drug dealer felon shall not be used.
13 Sentences for drug dealer felonies imposed under this Article shall run consecutively with
14 and shall commence at the expiration of any other sentence being served by the person."

15 Section 3. This act becomes effective December 1, 1997, and applies to
16 offenses committed on or after that date.