

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 474
Committee Substitute Favorable 4/26/19
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Senate Judiciary Committee Substitute Adopted 6/19/19

Short Title: Death by Distribution.

(Public)

Sponsors:

Referred to:

March 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE OFFENSES OF DEATH BY DISTRIBUTION OF CERTAIN
3 CONTROLLED SUBSTANCES AND AGGRAVATED DEATH BY DISTRIBUTION OF
4 CERTAIN CONTROLLED SUBSTANCES.

5 Whereas, the General Assembly finds that the number of deaths resulting from
6 opioid-related overdoses has drastically increased over the past 20 years; and

7 Whereas, the General Assembly finds that the number of deaths resulting from
8 opioid-related overdoses is unlikely to be reduced so long as the drug continues to be made
9 available through illegal distribution by drug dealers; and

10 Whereas, the General Assembly finds that the legal distribution of opioids should
11 only be through a prescription issued for a legitimate medical purpose by an individual
12 practitioner acting in the usual course of his or her professional practice; and

13 Whereas, it is the intent of the General Assembly to strengthen the laws to act as a
14 greater deterrent to persons who want to illegally distribute opioids and further exacerbate the
15 opioid epidemic; Now, therefore,

16 The General Assembly of North Carolina enacts:

17 SECTION 1. Article 6 of Chapter 14 of the General Statutes is amended by adding
18 a new section to read:

19 **§ 14-18.4. Death by distribution of certain controlled substances; aggravated death by**
20 **distribution of certain controlled substances; penalties.**

21 (a) Legislative Intent. – The General Assembly recognizes that deaths due to the opioid
22 epidemic are devastating families and communities across North Carolina. The General
23 Assembly finds that the opioid crisis is overwhelming medical providers engaged in the lawful
24 distribution of controlled substances and is straining prevention and treatment efforts. Therefore,
25 the General Assembly enacts this law to encourage effective intervention by the criminal justice
26 system to hold illegal drug dealers accountable for criminal conduct that results in death.

27 (b) Death by Distribution of Certain Controlled Substances. – A person is guilty of death
28 by distribution of certain controlled substances if all of the following requirements are met:

29 (1) The person unlawfully sells at least one certain controlled substance.

30 (2) The ingestion of the certain controlled substance or substances causes the
31 death of the user.

32 (3) The commission of the offense in subdivision (1) of this subsection was the
33 proximate cause of the victim's death.

34 (4) The person did not act with malice.



1 (c) Aggravated Death by Distribution of Certain Controlled Substances. – A person is
2 guilty of aggravated death by distribution of certain controlled substances if all of the following
3 requirements are met:

4 (1) The person unlawfully sells at least one certain controlled substance.

5 (2) The ingestion of the certain controlled substance or substances causes the
6 death of the user.

7 (3) The commission of the offense in subdivision (1) of this subsection was the
8 proximate cause of the victim's death.

9 (4) The person did not act with malice.

10 (5) The person has a previous conviction under this section, G.S. 90-95(a)(1),
11 90-95.1, 90-95.4, 90-95.6, or trafficking in violation of G.S. 90-95(h), or a
12 prior conviction in any federal or state court in the United States that is
13 substantially similar to an offense listed, within seven years of the date of the
14 offense. In calculating the seven-year period under this subdivision, any
15 period of time during which the person was incarcerated in a local, state, or
16 federal detention center, jail, or prison shall be excluded.

17 (d) Certain Controlled Substance. – For the purposes of this section, the term "certain
18 controlled substance" includes any opium, opiate, or opioid; any synthetic or natural salt,
19 compound, derivative, or preparation of opium, opiate, or opioid; cocaine or any other substance
20 described in G.S. 90-90(1)(d); methamphetamine; a depressant described in G.S. 90-92(a)(1); or
21 a mixture of one or more of these substances.

22 (e) Lesser Included Offense. – Death by distribution of certain controlled substances
23 constitutes a lesser included offense of aggravated death by distribution of certain controlled
24 substances in violation of this section.

25 (f) Samaritan Protection. – Nothing in this section shall be construed to restrict or
26 interfere with the rights and immunities provided under G.S. 90-96.2.

27 (g) Lawful Distribution. – This section shall not apply to any of the following:

28 (1) Issuing a valid prescription for a controlled substance for a legitimate medical
29 purpose by an individual practitioner acting in the usual course of professional
30 practice.

31 (2) Dispensing, delivering, or administering a controlled substance pursuant to a
32 prescription, by a pharmacy permitted under G.S. 90-85.21, a pharmacist, or
33 an individual practitioner.

34 (h) Penalties. – Unless the conduct is covered under some other provision of law
35 providing greater punishment, the following classifications apply to the offenses set forth in this
36 section:

37 (1) Death by distribution of certain controlled substances is a Class C felony.

38 (2) Aggravated death by distribution of certain controlled substances is a Class
39 B2 felony."

40 **SECTION 2.** This act becomes effective December 1, 2019, and applies to offenses
41 committed on or after that date.