**DRUG TRAFFICKING SENTENCING (G.S. 90-95(h))**

A person convicted of drug trafficking must be sentenced as set out below, including the mandatory fine, regardless of his or her prior criminal record. A person sentenced for trafficking may not be placed on probation unless the judge finds that the person has provided *substantial assistance*, as described below. Trafficking sentences must run consecutively with any other sentence being served by the defendant. However, when a trafficking offense is disposed of in the same proceeding as another conviction the court may impose concurrent sentences. State v. Walston, 193 N.C. App. 134, 141–42 (2008).

*Substantial assistance.* The judge sentencing a defendant for trafficking *may* reduce the fine, or impose a prison term less than the applicable minimum, or suspend the prison term and place the defendant on probation when the defendant has provided substantial assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals, if the sentencing judge enters in the record a finding that the defendant has rendered such substantial assistance. G.S. 90-95(h)(5). The decision of whether or not the defendant has provided substantial assistance is within the discretion of the trial court, State v. Hamad, 92 N.C. App. 282 (1988), and even when the court finds substantial assistance, the decision to reduce the defendant’s sentence is also in the court’s discretion. State v. Wells, 104 N.C. App. 274 (1991). The felony sentencing judgment forms include a box for the court to note its finding of substantial assistance.

When substantial assistance applies, the court may select a minimum sentence of its choosing; it is not bound by the regular sentencing grid. State v. Saunders, 131 N.C. App. 551 (1998). Generally, the court should use the corresponding maximum sentence that is 120% of the minimum imposed, plus the appropriate amount of time for post-release supervision (9 months for Class C–E trafficking offenses committed before December 1, 2011; 12 months for Class C–E offenses and 9 months for Class F–H offenses committed on or after December 1, 2011). If the sentence does not include additional time for post-release supervision, the Department of Correction will not give the defendant PRS.

*Conspiracy to commit trafficking.* Conspiracies to commit trafficking offenses are punishable the same as the target offense. G.S. 90-95(i).

*Attempted trafficking.* Attempts to commit trafficking are the same *offense class* as the target offense, but they are sentenced under the ordinary felony punishment chart, not the special mandatory minimums for completed trafficking offenses. G.S. 90-98.

**MINIMUM-MAXIMUM SENTENCES FOR DRUG TRAFFICKING CRIMES, BY OFFENSE CLASS**

|  |  |  |
| --- | --- | --- |
| **Class** | **Minimum** | **Maximum** |
| Class C | 225 months | 279 |
| Class D | 175 | 219 |
| Class E | 90 | 117 |
| Class F | 70 | 84 |
| Class G | 35 | 42 |
| Class H | 25 | 30 |

|  |  |  |  |
| --- | --- | --- | --- |
| **Drug** | **Amount** | **Class** | **Fine (not less than)** |
| Marijuana | Excess of 10-49 lbs. | Class H | $5,000 |
|  | 50-1,999 | Class G | $25,000 |
|  | 2,000-9,999 | Class F | $50,000 |
|  | 10,000 or more | Class D | $200,000 |
|  |  |  |  |
| Methaqualone | 1,000-4,999 dosage units | Class G | $25,000 |
|  | 5,000-9,999 | Class F | $50,000 |
|  | 10,000 or more | Class D | $200,000 |
|  |  |  |  |
| Cocaine | 28-199 grams | Class G | $50,000 |
|  | 200-399 | Class F | $100,000 |
|  | 400 or more | Class D | $250,000 |
|  |  |  |  |
| Methamphetamine | 28-199 grams | Class F | $50,000 |
|  | 200-399 | Class E | $100,000 |
|  | 400 or more | Class C | $250,000 |
|  |  |  |  |
| Amphetamine | 28-199 grams | Class H | $5,000 |
|  | 200-399 | Class G | $25,000 |
|  | 400 or more | Class E | $100,000 |
|  |  |  |  |
| Opium or Heroin | 4-13 grams | Class F | $50,000 |
|  | 14-27 | Class E | $100,000 |
|  | 28 or more | Class C | $500,000 |
|  |  |  |  |
| LSD | 100-499 units | Class G | $25,000 |
|  | 500-999 | Class F | $50,000 |
|  | 1,000 or more | Class D | $200,000 |
| MDA/MDMA | 100-499 units/28-199 grams | Class G | $25,000 |
|  | 500-999 units/200-399 grams | Class F | $50,000 |
|  | 1,000 units/400 grams, or more | Class D | $250,000 |
| MDPV\* | 28-199 grams | Class F | $50,000 |
|  | 200-399 | Class E | $100,000 |
|  | 400 or more | Class C | $250,000 |
| Mephedrone\* | 28-199 grams | Class F | $50,000 |
|  | 200-399 | Class E | $100,000 |
|  | 400 or more | Class C | $250,000 |
| Synthetic | Excess of 50-249 dosage units\*\* | Class H | $5,000 |
| Cannabinoids\* | 250-1,249 | Class G | $25,000 |
|  | 1,250-3,749  3,750 or more  \*\*A "dosage unit" is 3 grams of  synthetic cannabinoid or any mixture containing such substance. | Class F  Class D | $50,000  $200,000 |

\* Offenses committed on or after June 1, 2011. S.L. 2011-12.