



SENATE BILL 375: Death by Distribution.

2019-2020 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: April 30, 2019
Introduced by: Sens. Brown, Bishop	Prepared by: Shawn Middlebrooks
Analysis of: Second Edition	Staff Attorney

OVERVIEW: *Senate Bill 375 would create new criminal offenses for death by distribution, and aggravated death by distribution, of "certain controlled substances" without malice.*

CURRENT LAW: Second-degree murder is the unlawful killing of another human being *with malice*, but without premeditation or deliberation¹, and includes murder that was proximately caused by the unlawful distribution of any opium, opiate or opioid or any synthetic or natural salt, compound, derivative, or preparation of opium, opiate, opioid; cocaine, or other substance described in G.S. 90-90(1)d; methamphetamine; depressant described in G.S. 90-92(a)(1), and ingestion of the substance caused the death of the user. *State v. Parlee*, 209 N.C. App.144, 146-147 (2011); G.S. 14-17(b)(2). A violation of G.S. 14-17(b)(2) is punishable as a **Class B2 felony** (94-484 months of incarceration).

Malice is defined as an inherently dangerous act done in such a reckless and wanton manner as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief. G.S. 14-17(b)(1).

BILL ANALYSIS: Senate Bill 375 would:

- Death by Distribution – Make it a **Class C felony** (44-231 months incarceration) if a person unlawfully sells and delivers one "certain controlled substance" to a victim that proximately causes the victim's death if the substance is ingested, and the person acted *without malice*.
- Aggravated Death by Distribution – Make it a **Class B2 felony** (94-484 months incarceration) if a person satisfies the elements of Death by Distribution, and the person has a previous conviction for an offense listed in this section within 7 years of the date of offense.
- Define "Certain Controlled Substances" as any substance referenced in G.S. 14-17(b)(2).
- Make Death by Distribution a lesser included offense of Aggravated Death by Distribution and Second-Degree murder under G.S. 14-17(b)(2).
- Clarify that nothing in this section restricts or limits rights and immunities under the Good Samaritan law (G.S. 90-96.2).
- Clarify that a valid prescription issued to an individual by a practitioner for a legitimate medical purpose is not unlawful distribution.

EFFECTIVE DATE: This act becomes effective December 1, 2019, and applies to offenses committed on or after that date.

¹ State v. Page, 346 N.C. 689 (1997).

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