17.0169.04000

Sixty-fifth Legislative Assembly of North Dakota

FIRST ENGROSSMENT with Senate Amendments ENGROSSED HOUSE BILL NO. 1341

Introduced by

Representative Rick C. Becker

- A BILL for an Act to amend and reenact subsections 3 and 7 of section 19-03.1-23 and
 subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code, relating to enhanced
- 3 penalties for manufacturing, delivering, or possessing controlled substances near schools; and
- 4 to provide a penalty.

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BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- SECTION 1. AMENDMENT. Subsection 3 of section 19-03.1-23 of the North Dakota
 Century Code is amended and reenacted as follows:
 - 3. <u>a.</u> For second or subsequent <u>offendersoffenses</u>, in addition to any other penalty imposed under this section, <u>aif the</u> person who violates this chapter, <u>except a person who manufactures</u>, <u>delivers</u>, <u>or possesses with the intent to manufacture or deliver marijuana</u>, <u>was at least twenty-one years of age at the time of the offense</u>, and <u>delivered a controlled substance to a person under the age of eighteen</u>, <u>the person</u> is subject to, and the court shall impose, <u>the following penalties to run consecutively to any other sentence imposed:</u>
 - a. Any person, eighteen years of age or older, who violates this section by willfully manufacturing, delivering, or possessing with intent to manufacture or deliver a controlled substance in or on, or within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public career and technical education school is subject to an eight-year term of imprisonment.
 - b. If the defendant was at least twenty-one years of age at the time of the offense, and delivered a controlled substance to a person under the age of eighteen, the defendant must be sentenced to a term of imprisonment forof at least eight years which is to run consecutively to any other sentence imposed.

- 1 <u>b.</u> It is not a defense that the defendant did not know the age of a person protected under this subdivision <u>a</u>.
 - c. The penalty in subdivision a does not apply to a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana.

SECTION 2. AMENDMENT. Subsection 7 of section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class C felony. If, at the time of the offense is committed during the hours of six a.m. to ten p.m. when school is in session or during a regularly school-sponsored activity and the person is in or on, or within one thousand feet [300.48 meters]three hundred feet [91.4 meters] of the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves one ounce [28.35 grams] or less of marijuana. Any person who violates this subsection regarding possession of one ounce [28.35 grams] or less of marijuana is guilty of a class B misdemeanor.

SECTION 3. AMENDMENT. Subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

- A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
 - a. The offense was committed during the hours of six a.m. to ten p.m. when school is in session or during a regularly school-sponsored activity and involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in or on, or within one thousand feet [300.48 meters]three hundred feet [91.4 meters] of, the real property comprising a child care or

1		preschool facility, public or private elementary or secondary school, public career			
2		and technical education school, or a public or private college or university;			
3	b.	Thethe defendant was at least sixteentwenty-one years of age at the time of the			
4		offense; and the offense involved the delivery of a controlled substance to a			
5		minor;			
6	e <u>b</u> .	The offense involved:			
7		(1)	Fifty	grams or more of a mixture or substance containing a detectable	
8			amo	unt of heroin;	
9		(2) Fifty grams or more of a mixture or substance containing a detectable			
10		amount of:		unt of:	
11			(a)	Coca leaves, except coca leaves and extracts of coca leaves from	
12				which cocaine, ecgonine, and derivatives of ecgonine or their salts	
13				have been removed;	
14			(b)	Cocaine, its salts, optical and geometric isomers, and salts of	
15				isomers;	
16			(c)	Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or	
17			(d)	Any compound, mixture, or preparation that contains any quantity of	
18				any of the substance referred to in subparagraphs a through c;	
19		(3)	Five	grams or more of a mixture or substance described in paragraph 2	
20			whic	h contains cocaine base;	
21		(4)	Ten	grams or more of phencyclidine or one hundred grams or more of a	
22			mixt	ure or substance containing a detectable amount of phencyclidine;	
23		(5)	One	gram, one hundred dosage units, or one-half liquid ounce or more of a	
24			mixt	ure or substance containing a detectable amount of lysergic acid	
25			dieth	ylamide;	
26		(6)	Forty	grams or more of a mixture or substance containing a detectable	
27			amo	unt of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten	
28			gran	ns or more of a mixture or substance containing a detectable amount of	
29			any	analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;	
30		(7)	Fifty	grams or more of a mixture or substance containing a detectable	
31			amo	unt of methamphetamine;	

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1	(8) Ten	grams, one hundred dosage units, or one-half liquid ounce or more of a
2	mix	cure or substance containing a detectable amount of
3	3,4-	methylenedioxy-N-methylamphetamine, C11H15NO2;
4	(9) One	hundred dosage units or one-half liquid ounce of a mixture or
5	sub	stance containing a detectable amount of gamma-hydroxybutyrate or
6	gan	ma-butyrolactone or 1,4 butanediol or any substance that is an analog
7	of g	amma-hydroxybutyrate;
8	(10) One	hundred dosage units or one-half liquid ounce of a mixture or
9	sub	stance containing a detectable amount of flunitrazepam; or
10	(11) Five	hundred grams or more of marijuana; or
11	d <u>c</u> . The defe	ndant had a firearm in the defendant's actual possession at the time of
12	the offens	se.