

Sixty-second
Legislative Assembly
of North Dakota

SENATE BILL NO. 2251

Introduced by

Senators Olafson, Nodland, Triplett

Representatives Conklin, Maragos, Rohr

1 A BILL for an Act to amend and reenact subsection 1 of section 19-03.1-23 and subsection 1 of
2 section 19-03.1-23.1 of the North Dakota Century Code, relating to manufacture, delivery, or
3 possession with intent to manufacture or deliver controlled substances.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 19-03.1-23 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. Except as authorized by this chapter, it is unlawful for any person to willfully, as
8 defined in section 12.1-02-02, manufacture, deliver, or possess with intent to
9 manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a
10 controlled substance by means of the internet, but any person who violates section
11 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who
12 violates this subsection with respect to:

13 a. A controlled substance classified in schedule I or II which is a narcotic drug, or
14 methamphetamine, is guilty of a class A felony and must be sentenced:

15 (1) For a second offense, to imprisonment for at least five years.

16 (2) For a third or subsequent offense, to imprisonment for twenty years.

17 b. Any other controlled substance classified in schedule I, II, or III, is guilty of a
18 class B felony; ~~except that any person who delivers one hundred pounds-~~

19 ~~[45.36 kilograms] or more of marijuana is guilty of a class A felony.~~ Except for a
20 person who manufactures, delivers, or possesses with the intent to manufacture
21 or deliver marijuana, any person found guilty under this subdivision must be
22 sentenced:

23 (1) For a second offense, to imprisonment for at least three years.

24 (2) For a third or subsequent offense, to imprisonment for ten years.

c. A substance classified in schedule IV, is guilty of a class C felony and must be sentenced:

(1) For a second offense, to imprisonment for at least six months.

(2) For a third offense, to imprisonment for at least one year.

(3) For a fourth or subsequent offense, to imprisonment for five years.

d. A substance classified in schedule V, is guilty of a class A misdemeanor.

SECTION 2. AMENDMENT. Subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:

a. The offense involved the manufacture ~~or distribution of, delivery, or possession,~~
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, public career and technical education school, or a public or private college or university;

b. The defendant was at least sixteen years of age at the time of the offense and the offense involved the delivery of a controlled substance to a minor;

c. The offense involved:

(1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;

(2) Fifty grams or more of a mixture or substance containing a detectable amount of:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(d) Any compound, mixture, or preparation that contains any quantity of any of the substance referred to in subparagraphs a through c;

- 1 (3) Five grams or more of a mixture or substance described in paragraph 2
- 2 which contains cocaine base;
- 3 (4) Ten grams or more of phencyclidine or one hundred grams or more of a
- 4 mixture or substance containing a detectable amount of phencyclidine;
- 5 (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a
- 6 mixture or substance containing a detectable amount of lysergic acid
- 7 diethylamide;
- 8 (6) Forty grams or more of a mixture or substance containing a detectable
- 9 amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten
- 10 grams or more of a mixture or substance containing a detectable amount of
- 11 any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
- 12 (7) Fifty grams or more of a mixture or substance containing a detectable
- 13 amount of methamphetamine;
- 14 (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a
- 15 mixture or substance containing a detectable amount of
- 16 3,4-methylenedioxy-N-methylamphetamine, $C_{11}H_{15}NO_2$;
- 17 (9) One hundred dosage units or one-half liquid ounce of a mixture or
- 18 substance containing a detectable amount of gamma-hydroxybutyrate or
- 19 gamma-butyrolactone or 1,4 butanediol or any substance that is an analog
- 20 of gamma-hydroxybutyrate;
- 21 (10) One hundred dosage units or one-half liquid ounce of a mixture or
- 22 substance containing a detectable amount of flunitrazepam; or
- 23 (11) Five hundred grams or more of marijuana; or
- 24 d. The defendant had a firearm in the defendant's actual possession at the time of
- 25 the offense.