

Sixty-fifth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1341**

Introduced by

Representative Rick C. Becker

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

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

6 **SECTION 1. AMENDMENT.** Subsection 3 of section 19-03.1-23 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8 3. a. For second or subsequent ~~offenders~~offenses, in addition to any other penalty  
9 imposed under this section, ~~aif the person who violates this chapter, except a~~  
10 ~~person who manufactures, delivers, or possesses with the intent to manufacture~~  
11 ~~or deliver marijuana, was at least twenty-one years of age at the time of the~~  
12 ~~offense, and delivered a controlled substance to a person under the age of~~  
13 ~~eighteen, the person~~ is subject to, and the court shall impose, ~~the following~~  
14 ~~penalties to run consecutively to any other sentence imposed:~~
- 15 a. ~~Any person, eighteen years of age or older, who violates this section by willfully~~  
16 ~~manufacturing, delivering, or possessing with intent to manufacture or deliver a~~  
17 ~~controlled substance in or on, or within one thousand feet [300.48 meters] of the~~  
18 ~~real property comprising a public or private elementary or secondary school or a~~  
19 ~~public career and technical education school is subject to an eight year term of~~  
20 ~~imprisonment.~~
- 21 b. ~~If the defendant was at least twenty-one years of age at the time of the offense,~~  
22 ~~and delivered a controlled substance to a person under the age of eighteen, the~~  
23 ~~defendant must be sentenced to a term of imprisonment for~~ at least eight years  
24 which is to run consecutively to any other sentence imposed.

b. It is not a defense that the defendant did not know the age of a person protected under this subdivision a.

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:

7. 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~~Any~~ person who violates this subsection is guilty of a class C felony. If, at the time of the offense the person is 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,~~ 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:

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, 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 child care or preschool facility, public or private elementary or secondary school,~~public career and technical education school, or a public or private college or university;~~

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

1            eb.    The offense involved:

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

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

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

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

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

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

14            (3)    Five grams or more of a mixture or substance described in paragraph 2  
15                   which contains cocaine base;

16            (4)    Ten grams or more of phencyclidine or one hundred grams or more of a  
17                   mixture or substance containing a detectable amount of phencyclidine;

18            (5)    One gram, one hundred dosage units, or one-half liquid ounce or more of a  
19                   mixture or substance containing a detectable amount of lysergic acid  
20                        diethylamide;

21            (6)    Forty grams or more of a mixture or substance containing a detectable  
22                   amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten  
23                   grams or more of a mixture or substance containing a detectable amount of  
24                        any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

25            (7)    Fifty grams or more of a mixture or substance containing a detectable  
26                   amount of methamphetamine;

27            (8)    Ten grams, one hundred dosage units, or one-half liquid ounce or more of a  
28                   mixture or substance containing a detectable amount of  
29                        3,4-methylenedioxy-N-methylamphetamine, C<sub>11</sub>H<sub>15</sub>NO<sub>2</sub>;

30            (9)    One hundred dosage units or one-half liquid ounce of a mixture or  
31                   substance containing a detectable amount of gamma-hydroxybutyrate or

- 1                               gamma-butyrolactone or 1,4 butanediol or any substance that is an analog  
2                               of gamma-hydroxybutyrate;  
3                   (10)   One hundred dosage units or one-half liquid ounce of a mixture or  
4                               substance containing a detectable amount of flunitrazepam; or  
5                   (11)   Five hundred grams or more of marijuana; or  
6           etc.   The defendant had a firearm in the defendant's actual possession at the time of  
7                               the offense.