

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.

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

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

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

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

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

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

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

11           a. ~~The offense involved the manufacture or distribution of, delivery, or possession,~~  
12           with intent to manufacture or deliver a controlled substance in or on, or within one  
13           thousand feet [300.48 meters] of, the real property comprising a public or private  
14           elementary or secondary school, public career and technical education school, or  
15           a public or private college or university;

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

18           c. The offense involved:

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

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

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

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

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

29           (d) Any compound, mixture, or preparation that contains any quantity of  
30           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.