

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED 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; and to provide a penalty.

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.

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. ~~The~~the defendant was at least ~~sixteen~~twenty-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 eb. The offense involved:

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

9 (2) Fifty grams or more of a mixture or substance containing a detectable
10 amount 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 which contains cocaine base;

21 (4) Ten grams or more of phencyclidine or one hundred grams or more of a
22 mixture 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 mixture or substance containing a detectable amount of lysergic acid
25 diethylamide;

26 (6) Forty grams or more of a mixture or substance containing a detectable
27 amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten
28 grams 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 amount of methamphetamine;

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