

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1459

Introduced by

Representatives Mitskog, Heinert, Schneider

Senator Larson

1 A BILL for an Act to amend and reenact section 19-03.1-23.1 of the North Dakota Century
2 Code, relating to increased penalties for drug offenses within three hundred feet of a public
3 park; and to provide a penalty.

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

5 **SECTION 1. AMENDMENT.** Section 19-03.1-23.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **19-03.1-23.1. Increased penalties for aggravating factors in drug offenses - Penalty.**

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

- 10 a. The offense was committed during a school sponsored activity or was committed
11 during the hours of six a.m. to ten p.m. if school is in session, the offense
12 involved the manufacture, delivery, or possession, with intent to manufacture or
13 deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of
14 the real property comprising a preschool facility, a public or private elementary or
15 secondary school, or a public career and technical education school, the
16 defendant was at least twenty-one years of age at the time of the offense, and
17 the offense involved the delivery of a controlled substance to a minor;
- 18 b. The offense involved the manufacture, delivery, or possession, with intent to
19 manufacture or deliver a controlled substance, other than marijuana or
20 tetrahydrocannabinol, in, on, or within three hundred feet [91.4 meters] of the real
21 property comprising a public park;
- 22 c. The offense involved:
- 23 (1) Fifty grams or more of a mixture or substance containing a detectable
24 amount of heroin;

- 1 (2) Fifty grams or more of a mixture or substance containing a detectable
2 amount of:
- 3 (a) Coca leaves, except coca leaves and extracts of coca leaves from
4 which cocaine, ecgonine, and derivatives of ecgonine or their salts
5 have been removed;
- 6 (b) Cocaine, its salts, optical and geometric isomers, and salts of
7 isomers;
- 8 (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
9 (d) Any compound, mixture, or preparation that contains any quantity of
10 any of the substance referred to in subparagraphs a through c;
- 11 (3) Twenty-eight grams or more of a mixture or substance described in
12 paragraph 2 which contains cocaine base;
- 13 (4) Ten grams or more of phencyclidine or one hundred grams or more of a
14 mixture or substance containing a detectable amount of phencyclidine;
- 15 (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a
16 mixture or substance containing a detectable amount of lysergic acid
17 diethylamide;
- 18 (6) Forty grams or more of a mixture or substance containing a detectable
19 amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide or ten
20 grams or more of a mixture or substance containing a detectable amount of
21 any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide;
- 22 (7) Fifty grams or more of a mixture or substance containing a detectable
23 amount of methamphetamine;
- 24 (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a
25 mixture or substance containing a detectable amount of
26 3,4-methylenedioxy-N-methylamphetamine, C₁₁H₁₅NO₂;
- 27 (9) One hundred dosage units or one-half liquid ounce of a mixture or
28 substance containing a detectable amount of gamma-hydroxybutyrate or
29 gamma-butyrolactone or 1,4 butanediol or any substance that is an analog
30 of gamma-hydroxybutyrate; or

1 (10) One hundred dosage units or one-half liquid ounce of a mixture or
2 substance containing a detectable amount of flunitrazepam; or

3 ~~e.d.~~ The defendant had a firearm in the defendant's actual possession at the time of
4 the offense; or

5 ~~d.e.~~ The defendant sells, distributes, delivers, or conspires to deliver a controlled
6 substance to an individual which results in the death of the individual due to the
7 use of that controlled substance and the death of the individual would not have
8 occurred in the absence of the defendant's conduct. This subdivision does not
9 apply to an individual who is immune from prosecution under section
10 19-03.1-23.4.

11 2. The offense is:

12 a. A class A felony if the violation of section 19-03.1-23 is designated as a class B
13 felony.

14 b. A class B felony if the violation of section 19-03.1-23 is designated as a class C
15 felony.

16 c. A class C felony if the violation of section 19-03.1-23 is designated as a class A
17 misdemeanor.