

**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.

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

3           **c.** The penalty in subdivision a does not apply to a person who manufactures,  
4   delivers, or possesses with the intent to manufacture or deliver marijuana.

5           **SECTION 2. AMENDMENT.** Subsection 7 of section 19-03.1-23 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7           7. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a  
8   controlled substance or a controlled substance analog unless the substance was  
9   obtained directly from, or pursuant to, a valid prescription or order of a practitioner  
10    while acting in the course of the practitioner's professional practice, or except as  
11    otherwise authorized by this chapter, but any person who violates section 12-46-24 or  
12    12-47-21 may not be prosecuted under this subsection. **Except as otherwise provided**  
13    **in this subsection, any**~~Any~~ person who violates this subsection is guilty of a class C  
14    felony. **If, at the time of the offense the person is in or on,**~~or within one thousand feet~~  
15    ~~[300.48 meters]~~**of the real property comprising a public or private elementary or**  
16    **secondary school**~~or a public career and technical education school,~~ **the person is**  
17    **guilty of a class B felony, unless the offense involves**~~one ounce [28.35 grams] or less~~  
18    **of marijuana. Any person who violates this subsection regarding possession**~~of one~~  
19    **ounce [28.35 grams] or less of marijuana is guilty of a class B misdemeanor.**

20           **SECTION 3. AMENDMENT.** Subsection 1 of section 19-03.1-23.1 of the North Dakota  
21 Century Code is amended and reenacted as follows:

22           1. A person who violates section 19-03.1-23 is subject to the penalties provided in  
23   subsection 2 if:  
24    **a.** **The offense involved the manufacture, delivery, or possession, with intent to**  
25    **manufacture or deliver a controlled substance in or on,**~~or within one thousand~~  
26    ~~feet [300.48 meters]~~**of, the real property comprising a child care or preschool**  
27    **facility, public or private elementary or secondary school,**~~public career and~~  
28    ~~technical education school, or a public or private college or university;~~  
29    ~~b.~~~~The~~**the** defendant was at least ~~sixteen~~**twenty-one** years of age at the time of the  
30    offense, and the offense involved the delivery of a controlled substance to a  
31    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           ec. The defendant had a firearm in the defendant's actual possession at the time of  
7                           the offense.