

Introduced by

Representatives Olson, M. Nelson

1 | A BILL for an Act to amend and reenact ~~subsection 9 of section 12.1-32-02 and~~ subsections 1
2 | and 5 of section 19-03.1-23 of the North Dakota Century Code, relating to mandatory
3 | sentences; and to provide a penalty.

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

5 | ~~**SECTION 1. AMENDMENT.** Subsection 9 of section 12.1-32-02 of the North Dakota~~
6 | ~~Century Code is amended and reenacted as follows:~~

7 | ~~9. A person who is convicted of a felony and sentenced to imprisonment for not more~~
8 | ~~than one year is deemed to have been convicted of a misdemeanor upon successful~~
9 | ~~completion of the term of imprisonment and a term of probation imposed as a part of~~
10 | ~~the sentence. This subsection does not apply to a person convicted of violating~~
11 | ~~subdivision a, b, or c or b of subsection 1 of section 19-03.1-23.~~

12 | **SECTION 1. AMENDMENT.** Subsections 1 and 5 of section 19-03.1-23 of the North Dakota
13 | Century Code are amended and reenacted as follows:

- 14 | 1. Except as authorized by this chapter, it is unlawful for any person to willfully, as
15 | defined in section 12.1-02-02, manufacture, deliver, or possess with intent to
16 | manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a
17 | controlled substance by means of the internet, but any person who violates section
18 | 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who
19 | violates this subsection with respect to:
- 20 | a. A controlled substance classified in schedule I or II which is a narcotic drug, or
21 | methamphetamine, is guilty of a class A felony and must be sentenced:
- 22 | (1) For a second offense, to imprisonment for at least five years.
23 | (2) For a third or subsequent offense, to imprisonment for ~~twenty~~ at least ten
24 | years.

- 1 b. Any other controlled substance classified in schedule I, II, or III, or a controlled
2 substance analog is guilty of a class B felony. Except for a person who
3 manufactures, delivers, or possesses with the intent to manufacture or deliver
4 marijuana, any person found guilty under this subdivision must be sentenced:
5 (1) For a second offense, to imprisonment for at least three years.
6 (2) For a third or subsequent offense, to imprisonment for ~~ten~~at least five years.
- 7 c. A controlled substance classified in schedule IV, is guilty of a class C felony and
8 must be sentenced:
9 (1) For a second offense, to imprisonment for at least six months.
10 (2) For a third offense, to imprisonment for at least one year.
11 (3) For a fourth or subsequent offense, to imprisonment for ~~five~~at least three
12 years.
- 13 d. A controlled substance classified in schedule V, is guilty of a class A
14 misdemeanor.
- 15 5. A felony violation of this chapter or a law of another state or the federal government
16 which is equivalent to an offense under this chapter committed while the offender was
17 an adult and which resulted in a plea or finding of guilt must be considered a prior
18 offense under subsections 1, 3, and 4. The prior offense must be alleged in the
19 complaint, information, or indictment. The plea or finding of guilt for the prior offense
20 must have occurred before the date of the commission of the offense or offenses
21 charged in the complaint, information, or indictment.