

SENATE BILL NO. 2401

Introduced by

Senators O'Connell, Lyson, Syverson

Representatives Galvin, Glassheim, Onstad

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 possessing a firearm during a controlled substance
3 offense; 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
6 is amended and reenacted as follows:

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

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 involved the manufacture or distribution of a controlled substance
11 in or on, or within one thousand feet [300.48 meters] of, the real property
12 comprising a public or private elementary or secondary school, public career
13 and technical education school, or a public or private college or university;

14 b. The defendant was at least sixteen years of age at the time of the offense and
15 the offense involved the delivery of a controlled substance to a minor; ~~or,~~

16 c. The offense involved:

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

19 (2) Fifty grams or more of a mixture or substance containing a detectable
20 amount of:

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

- 1 (b) Cocaine, its salts, optical and geometric isomers, and salts of
2 isomers;
- 3 (c) Ecgonine, its derivatives, their salts, isomers, and salts of
4 isomers; or
- 5 (d) Any compound, mixture, or preparation that contains any quantity
6 of any of the substance referred to in subparagraphs a through c;
- 7 (3) Five grams or more of a mixture or substance described in paragraph 2
8 which contains cocaine base;
- 9 (4) Ten grams or more of phencyclidine or one hundred grams or more of a
10 mixture or substance containing a detectable amount of phencyclidine;
- 11 (5) One gram, one hundred dosage units, or one-half liquid ounce or more
12 of a mixture or substance containing a detectable amount of lysergic
13 acid diethylamide;
- 14 (6) Forty grams or more of a mixture or substance containing a detectable
15 amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide or
16 ten grams or more of a mixture or substance containing a detectable
17 amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]
18 propanamide;
- 19 (7) Fifty grams or more of a mixture or substance containing a detectable
20 amount of methamphetamine;
- 21 (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more
22 of a mixture of substance containing a detectable amount of
23 3,4-methylenedioxy-N-methylamphetamine, $C_{11}H_{15}NO_2$;
- 24 (9) One hundred dosage units or one-half liquid ounce of a mixture or
25 substance containing a detectable amount of gamma-hydroxybutyrate
26 or gamma-butyrolactone or 1,4 butanediol or any substance that is an
27 analog of gamma-hydroxybutyrate;
- 28 (10) One hundred dosage units or one-half liquid ounce of a mixture or
29 substance containing a detectable amount of flunitrazepam; or
- 30 (11) Five hundred grams or more of marijuana.

- 1 d. The defendant had a firearm in the defendant's actual possession at the time
2 of the offense.
- 3 2. The offense is:
- 4 a. A class AA felony if the violation of section 19-03.1-23 is designated as a
5 class A felony.
- 6 b. A class A felony if the violation of section 19-03.1-23 is designated as a
7 class B felony.
- 8 c. A class B felony if the violation of section 19-03.1-23 is designated as a
9 class C felony.
- 10 d. A class C felony if the violation of section 19-03.1-23 is designated as a
11 class A misdemeanor or the defendant had a firearm in the defendant's actual
12 possession at the time of the offense.