Sixty-fifth Legislative Assembly of North Dakota

FIRST ENGROSSMENT with Senate Amendments 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 enhanced
- 3 penalties for manufacturing, delivering, or possessing controlled substances near schools; and
- 4 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.	<u>a.</u>	For second or subsequent offendersoffenses, 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-

- 19public career and technical education school is subject to an eight-year term of20imprisonment.
- b. If the defendant was at least twenty-one years of age at the time of the offense,
 and delivered a controlled substance to a person under the age of eighteen, the
 defendant must be sentenced to a term of imprisonment forof at least eight years
 which is to run consecutively to any other sentence imposed.

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- 1b.It is not a defense that the defendant did not know the age of a person protected2under this subdivision a.
- 3 <u>c.</u> The penalty in subdivision a does not apply to a person who manufactures,
 4 <u>delivers, or possesses with the intent to manufacture or deliver marijuana.</u>

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 person who violates this subsection is guilty of a class C felony. 14 If, at the time of the offense is committed during the hours of six a.m. to ten p.m. when 15 school is in session or during a regularly school-sponsored activity and the person is in 16 or on, or within one thousand feet [300.48 meters]three hundred feet [91.4 meters] of 17 the real property comprising a public or private elementary or secondary school or a 18 public career and technical education school, the person is guilty of a class B felony, 19 unless the offense involves one ounce [28.35 grams] or less of marijuana. Any person 20 who violates this subsection regarding possession of one ounce [28.35 grams] or less-21 of marijuana is guilty of a class B misdemeanor. 22 SECTION 3. AMENDMENT. Subsection 1 of section 19-03.1-23.1 of the North Dakota 23 Century Code is amended and reenacted as follows:
- A person who violates section 19-03.1-23 is subject to the penalties provided in
 subsection 2 if:
- 26a.The offense was committed during the hours of six a.m. to ten p.m. when school27is in session or during a regularly school-sponsored activity and involved the28manufacture, delivery, or possession, with intent to manufacture or deliver a29controlled substance in or on, or within one thousand feet [300.48 meters]three30hundred feet [91.4 meters] of, the real property comprising a child care or

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1		pres	school	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.	Thethe defendant was at least sixteentwenty-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	e <u>b</u> .	The offense involved:					
7		(1)	Fifty	grams or more of a mixture or substance containing a detectable			
8			amo	unt of heroin;			
9		(2)	Fifty	grams or more of a mixture or substance containing a detectable			
10			amo	unt 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			whic	h contains cocaine base;			
21		(4)	Ten	grams or more of phencyclidine or one hundred grams or more of a			
22			mixt	ure 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			mixt	ure or substance containing a detectable amount of lysergic acid			
25			dieth	nylamide;			
26		(6)	Forty	y grams or more of a mixture or substance containing a detectable			
27			amo	unt of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten			
28			gran	ns or more of a mixture or substance containing a detectable amount of			
29			anya	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			amo	unt 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	d<u>c</u>. The	defendant had a firearm in the defendant's actual possession at the time of				
12	the	the offense.				