

Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005

SENATE BILL NO. 2401
(Senators O'Connell, Lyson, Syverson)
(Representatives Galvin, Glassheim, Onstad)

AN ACT to amend and reenact section 19-03.1-23.1 of the North Dakota Century Code, relating to increased penalties for possessing a firearm during a controlled substance offense; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
 - a. The offense involved the manufacture or distribution of a controlled substance in or on, or within one thousand feet [300.48 meters] of, the real property comprising a public or private elementary or secondary school, public career and technical education school, or a public or private college or university;
 - b. The defendant was at least sixteen years of age at the time of the offense and the offense involved the delivery of a controlled substance to a minor; ~~or~~
 - c. The offense involved:
 - (1) Fifty grams or more of a mixture or substance containing a detectable amount of heroin;
 - (2) Fifty grams or more of a mixture or substance containing a detectable amount of:
 - (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (b) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - (d) Any compound, mixture, or preparation that contains any quantity of any of the substance referred to in subparagraphs a through c;
 - (3) Five grams or more of a mixture or substance described in paragraph 2 which contains cocaine base;
 - (4) Ten grams or more of phencyclidine or one hundred grams or more of a mixture or substance containing a detectable amount of phencyclidine;
 - (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide;

- (6) Forty grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten grams or more of a mixture or substance containing a detectable amount of any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
- (7) Fifty grams or more of a mixture or substance containing a detectable amount of methamphetamine;
- (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a mixture of substance containing a detectable amount of 3,4-methylenedioxy-N-methylamphetamine, $C_{11}H_{15}NO_2$;
- (9) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of gamma-hydroxybutyrate or gamma-butyrolactone or 1,4 butanediol or any substance that is an analog of gamma-hydroxybutyrate;
- (10) One hundred dosage units or one-half liquid ounce of a mixture or substance containing a detectable amount of flunitrazepam; or
- (11) Five hundred grams or more of marijuana; or

d. The defendant had a firearm in the defendant's actual possession at the time of the offense.

2. The offense is:

- a. A class AA felony if the violation of section 19-03.1-23 is designated as a class A felony.
- b. A class A felony if the violation of section 19-03.1-23 is designated as a class B felony.
- c. A class B felony if the violation of section 19-03.1-23 is designated as a class C felony.
- d. A class C felony if the violation of section 19-03.1-23 is designated as a class A misdemeanor.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2401.

Senate Vote: Yeas 43 Nays 1 Absent 3

House Vote: Yeas 87 Nays 0 Absent 7

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,
at _____ o'clock _____ M.

Secretary of State