Sixty-eighth Legislative Assembly of North Dakota

#### **HOUSE BILL NO. 1459**

Introduced by

Representatives Mitskog, Heinert, Schneider

Senator Larson

- 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 drug offenses within three hundred feet of a public
- 3 park; and to provide a penalty.

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#### 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 is amended and reenacted as follows:

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

- 1. A person who violates section 19-03.1-23 is subject to the penalties provided in subsection 2 if:
  - a. The offense was committed during a school sponsored activity or was committed during the hours of six a.m. to ten p.m. if school is in session, the offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of the real property comprising a preschool facility, a public or private elementary or secondary school, or a public career and technical education school, the defendant was at least twenty-one years of age at the time of the offense, and the offense involved the delivery of a controlled substance to a minor;
  - b. The offense involved the manufacture, delivery, or possession, with intent to manufacture or deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of a public park;
  - c. The offense involved:
    - Fifty grams or more of a mixture or substance containing a detectable amount of heroin;

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1	(2)	Fifty grams or more of a mixture or substance containing a detectable	
2		amoı	unt of:
3		(a)	Coca leaves, except coca leaves and extracts of coca leaves from
4			which cocaine, ecgonine, and derivatives of ecgonine or their salts
5			have been removed;
6		(b)	Cocaine, its salts, optical and geometric isomers, and salts of
7			isomers;
8		(c)	Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
9		(d)	Any compound, mixture, or preparation that contains any quantity of
10			any of the substance referred to in subparagraphs a through c;
11	(3)	Twer	nty-eight grams or more of a mixture or substance described in
12		para	graph 2 which contains cocaine base;
13	(4)	Ten g	grams or more of phencyclidine or one hundred grams or more of a
14		mixtu	ure or substance containing a detectable amount of phencyclidine;
15	(5)	One	gram, one hundred dosage units, or one-half liquid ounce or more of a
16		mixtu	ure or substance containing a detectable amount of lysergic acid
17		dieth	ylamide;
18	(6)	Forty	grams or more of a mixture or substance containing a detectable
19		amoı	unt of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or ten
20		gram	ns or more of a mixture or substance containing a detectable amount of
21		any a	analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
22	(7)	Fifty	grams or more of a mixture or substance containing a detectable
23		amoı	unt of methamphetamine;
24	(8)	Ten g	grams, one hundred dosage units, or one-half liquid ounce or more of a
25		mixtu	ure or substance containing a detectable amount of
26		3,4-n	nethylenedioxy-N-methylamphetamine, C11H15NO2;
27	(9)	One	hundred dosage units or one-half liquid ounce of a mixture or
28		subs	tance containing a detectable amount of gamma-hydroxybutyrate or
29		gamr	ma-butyrolactone or 1,4 butanediol or any substance that is an analog
30		of ga	ımma-hydroxybutyrate; or

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1		(10) One hundred dosage units or one-half liquid ounce of a mixture or
2		substance containing a detectable amount of flunitrazepam; or
3	<del>c.</del> d.	The defendant had a firearm in the defendant's actual possession at the time of
4		the offense-; or
5	<del>d.</del> e.	The defendant sells, distributes, delivers, or conspires to deliver a controlled
6		substance to an individual which results in the death of the individual due to the
7		use of that controlled substance and the death of the individual would not have
8		occurred in the absence of the defendant's conduct. This subdivision does not
9		apply to an individual who is immune from prosecution under section
10		19-03.1-23.4.
11	2. Th	e offense is:
12	a.	A class A felony if the violation of section 19-03.1-23 is designated as a class B
13		felony.
14	b.	A class B felony if the violation of section 19-03.1-23 is designated as a class C
15		felony.
16	C.	A class C felony if the violation of section 19-03.1-23 is designated as a class A
17		misdemeanor.