

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 679

Short Title: Drug Free School Zone/1,000 Ft.

(Public)

Sponsors: Representatives McLaughlin; Barbee, Bowie, Bowman, Creech, DeVane, Easterling, Flaherty, Foster, Gottovi, Hasty, Mavretic, Privette, Warner, and Wilson.

Referred to: Judiciary II.

April 11, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN DRUG OFFENSES COMMITTED WITHIN ONE THOUSAND FEET OF A SCHOOL SHALL BE PUNISHABLE AS CLASS E FELONIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-95(e) reads as rewritten:

"(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

(1),(2) Repealed by Session Laws 1979, c. 760, s. 5.

(3) If any person commits an offense under this Article for which the prescribed punishment includes imprisonment for not more than two years, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be punished as a Class I felon;

(4) If any person commits an offense under this Article for which the prescribed punishment includes imprisonment for not more than six months, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a misdemeanor and shall be sentenced to a term of imprisonment of not more than two years or

- 1                    fined not more than two thousand dollars (\$2,000), or both in the  
2                    discretion of the court;
- 3            (5)    Any person 18 years of age or over who violates G.S. 90-95(a)(1) by  
4                    selling or delivering a controlled substance to a person under 16 years  
5                    of age or a pregnant female shall be punished as a Class E felon.  
6                    Mistake of age is not a defense to a prosecution under this section. It  
7                    shall not be a defense that the defendant did not know that the recipient  
8                    was pregnant;
- 9            (6)    For the purpose of increasing punishment, previous convictions for  
10                    offenses shall be counted by the number of separate trials at which  
11                    final convictions were obtained and not by the number of charges at a  
12                    single trial;
- 13           (7)    If any person commits an offense under this Article for which the  
14                    prescribed punishment requires that any sentence of imprisonment be  
15                    suspended, and if he has previously been convicted for one or more  
16                    offenses under any law of North Carolina or any law of the United  
17                    States or any other state, which offenses are punishable under any  
18                    provision of this Article, he shall be guilty of a misdemeanor and shall  
19                    be sentenced to a term of imprisonment of not more than six months or  
20                    fined not more than five hundred dollars (\$500.00), or both in the  
21                    discretion of the court;
- 22           (8)    Any person 21 years of age or older who commits an offense under  
23                    G.S. 90-95(a)(1) on property used for an elementary or secondary  
24                    school or within ~~300~~1,000 feet of the boundary of real property used  
25                    for an elementary or secondary school shall be punished as a Class E  
26                    felon. For purposes of this subdivision, the transfer of less than five  
27                    grams of marijuana for no remuneration shall not constitute a delivery  
28                    in violation of G.S. 90-95(a)(1). A person sentenced under this  
29                    subdivision must serve a mandatory term of imprisonment of no less  
30                    than two years, notwithstanding the provisions of G.S. 90-95(h)(5) or  
31                    any other law. The sentencing judge may not suspend the mandatory  
32                    two-year term of imprisonment or place the person on probation for  
33                    the mandatory two-year term of imprisonment. During that time the  
34                    prisoner is not eligible for early parole or early release."

35            Sec. 2. This act becomes effective October 1, 1991, and applies to offenses  
36            occurring on or after that date.