

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 526

Short Title: Drug Sales to Youths.

(Public)

Sponsors: Representatives Justus; Anderson, Beard, Bowen, Bowman, N. J. Crawford, Culp, Fletcher, Gardner, Hensley, Howard, Isenhower, Jeralds, Kimsey, Ligon, Lutz, McLawhorn, Privette, Robinson, Russell, and Wilson..

Referred to: Judiciary I.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO INCREASE RESTRICTIONS FOR SELLING DRUGS TO YOUTHS
WITHIN ONE THOUSAND FEET OF SCHOOL.

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(1),(2) Repealed by Session Laws 1979, c. 760, s. 5.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 ~~21-18~~ 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 school~~
24 educational institution, or within ~~300-1000~~ feet of the boundary of real
25 property used for an ~~elementary or secondary school~~ public or private
26 youth center, shall be punished as a Class E felon. For purposes of this
27 subdivision, ~~the transfer of less than five grams of marijuana for no~~
28 ~~remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1)-~~
29 section, educational institution means any public or private
30 kindergarten, elementary, vocational, or secondary school, or public or
31 private college, junior college, community college, or university. A
32 person sentenced under this subdivision must serve a mandatory term
33 of imprisonment of no less than ~~two~~ three years, notwithstanding the
34 provisions of G.S. 90-95(h)(5) or any other law. ~~The sentencing judge~~
35 ~~may not suspend the mandatory two-year term of imprisonment or place the~~
36 ~~person on probation for the mandatory two-year term of imprisonment.~~
37 ~~During that time the prisoner is not eligible for early parole or early release."~~
38 A person sentenced under this section may not receive a suspended
39 sentence or be placed on probation. The actual time served pursuant to
40 a sentence under this section may not be reduced for good time, gain
41 time, or by early parole."

42 Sec. 2. This act becomes effective January 1, 1992, and applies to offenses
43 occurring on or after that date.