

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

2

HOUSE BILL 267  
Second Edition Engrossed 3/21/89

Short Title: Drug Free School Zone.

(Public)

---

Sponsors: Representatives McLaughlin; Blue, Buchanan, Chapin, Cooper, Cromer, Cunningham, DeVane, Duncan, Easterling, B. Ethridge, Foster, Hasty, Jones, Justus, Kimsey, Lineberry, Miller, Privette, Redwine, Wood, and Woodard.

---

Referred to: Education.

---

February 20, 1989

A BILL TO BE ENTITLED

1  
2 AN ACT TO PROVIDE THAT A MANDATORY SENTENCE BE IMPOSED ON A  
3 PERSON TWENTY YEARS OF AGE OR OLDER WHO IS CONVICTED OF A  
4 DRUG SALE OR DELIVERY TO A PERSON UNDER EIGHTEEN YEARS OF  
5 AGE AND THAT A MANDATORY SENTENCE BE IMPOSED ON A PERSON  
6 TWENTY YEARS OF AGE OR OLDER WHO MANUFACTURES, SELLS, OR  
7 DELIVERS A CONTROLLED SUBSTANCE WITHIN ONE THOUSAND FEET  
8 OF A SCHOOL ZONE.

9 The General Assembly of North Carolina enacts:

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

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

14 (1),(2) Repealed by Session Laws 1979, c. 760, s. 5.

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

- 1 (4) If any person commits an offense under this Article for which the  
2 prescribed punishment includes imprisonment for not more than six  
3 months, and if he has previously been convicted for one or more  
4 offenses under any law of North Carolina or any law of the United  
5 States or any other state, which offenses are punishable under any  
6 provision of this Article, he shall be guilty of a misdemeanor and shall  
7 be sentenced to a term of imprisonment of not more than two years or  
8 fined not more than two thousand dollars (\$2,000), or both in the  
9 discretion of the court;
- 10 (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by  
11 selling or delivering a controlled substance to a person under 16 years  
12 of age shall be punished as a Class E felon;
- 13 (5.1) Any person 20 years of age or over who violates G.S.  
14 90-95(a)(1) by selling or delivering a controlled substance to  
15 a person under 18 years of age shall be punished as a Class E  
16 felon and shall be sentenced to a term of at least one year in  
17 the State's prison. A person sentenced under this subdivision  
18 must serve the mandatory term of imprisonment for one year.  
19 During that time the prisoner is not eligible for early parole or  
20 early release if sentenced as a youthful offender. The  
21 sentencing judge may not suspend the mandatory one-year  
22 term of imprisonment or place the person on probation for the  
23 mandatory one-year term of imprisonment.
- 24 (5.2) Any person 20 years of age or over who commits an offense under  
25 G.S. 90-95(a)(1) within 1,000 feet of the boundary of real property  
26 used for a public or private school, college, or university shall be  
27 punished as a Class E felon and shall be sentenced to a term of at least  
28 two years in the State's prison; however, for only this subsection, the  
29 transfer of less than 5 grams of marijuana for no remuneration shall  
30 not constitute a delivery in violation of G.S. 90-95(a)(1). A person  
31 sentenced under this subdivision must serve the mandatory term of  
32 imprisonment for two years. During that time the prisoner is not  
33 eligible for early parole or early release if sentenced as a youthful  
34 offender. The sentencing judge may not suspend the mandatory two-  
35 year term of imprisonment or place the person on probation for the  
36 mandatory two-year term of imprisonment.
- 37 (6) For the purpose of increasing punishment, previous convictions for  
38 offenses shall be counted by the number of separate trials at which  
39 final convictions were obtained and not by the number of charges at a  
40 single trial;
- 41 (7) If any person commits an offense under this Article for which the  
42 prescribed punishment requires that any sentence of imprisonment be  
43 suspended, and if he has previously been convicted for one or more  
44 offenses under any law of North Carolina or any law of the United

1                   States or any other state, which offenses are punishable under any  
2                   provision of this Article, he shall be guilty of a misdemeanor and shall  
3                   be sentenced to a term of imprisonment of not more than six months or  
4                   fined not more than five hundred dollars (\$500.00), or both in the  
5                   discretion of the court."

6                   Sec. 2. This act shall become effective October 1, 1989, and shall apply to  
7                   offenses occurring on or after that date.